83D CONGRESS
1ST SESSION

H. R. 6426

IN THE HOUSE OF REPRESENTATIVES

JULY 21, 1953

Mr. REED of New York introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code to extend the time during which certain provisions relating to income and estate taxes shall apply, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) SHORT TITLE.—This Act, divided into titles and sections according to the following table of contents, may be cited as the "Technical Changes Act of 1953":

TABLE OF CONTENTS

TABLE OF CONTENTS—Continued

(b) ACT AMENDATORY OF INTERNAL REVENUE CODE.—Except as otherwise expressly provided, wherever in this Act an amendment or repeal is expressed in terms of an amendment to or repeal of a chapter, subchapter, title, supplement, section, subsection, subdivision, paragraph, subparagraph, or clause, the reference shall be considered to be made to a provision of the Internal Revenue Code.

(c) MEANING OF TERMS USED.—Except as otherwise expressly provided, terms used in this Act shall have the same meaning as when used in the Internal Revenue Code.

TITLE I—EXTENSION PROVISIONS

SEC. 101. ELECTION AS TO RECOGNITION OF GAIN IN CERTAIN CORPORATE LIQUIDATIONS.

(a) AMENDMENT OF SECTION 112 (b) (7).—Section 112 (b) (7) (relating to recognition of gain in certain corporate liquidations) is hereby amended by striking out "1951 or 1952" in subparagraph (A) (ii) and inserting in lieu thereof "1951, 1952, or 1953".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to taxable years ending after December 31, 1952.

SEC. 102. EXTENSION OF TIME TO MAKE ELECTION IN RESPECT OF EXCESSIVE DEPRECIATION ALLOWED FOR PERIODS BEFORE 1952.

(a) AMENDMENT OF SECTION 113 (d).—So much of section 113 (d) (relating to election in respect of depreciation, etc., allowed before 1952) as follows the first sentence thereof is hereby amended to read as follows: "Such an election shall be made in such manner as the Secretary may by regulations prescribe and shall be irrevocable when made, except that an election made on or before December 31,

1952, may be revoked at any time before January 1, 1955. A revocation of an election shall be made in such manner as the Secretary may by regulations prescribe, and no election may be made by any person after he has so revoked an election. The election shall apply in respect of all property held by the person making the election at any time on or before December 31, 1952, and in respect of all periods since February 28, 1913, and before January 1, 1952, during which such person held such property or for which adjustments must be made under subsection (b) (2). An election or a revocation of an election by a transferor, donor, or grantor made after the date of the transfer, gift, or grant of property shall not affect the basis of such property in the hands of the transferee, donee, or grantee. No election may be made under this subsection after December 31, 1954."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective as if included in the amendment made by section 2 of Public Law 539, Eighty-second Congress, at the time of its enactment.

SEC. 103. EXTENSION OF TIME FOR MAKING ELECTION WITH RESPECT TO WAR-LOSS RECOVERIES.

Section 127 (c) (5) (relating to election with respect to war-loss recoveries) is hereby amended by striking out

"December 31, 1952" and inserting in lieu thereof "December 31, 1953".

SEC. 104. EXTENSION OF PERIOD OF ABATEMENT OF INCOME TAXES OF MEMBERS OF ARMED FORCES UPON DEATH.

Section 154 (relating to income taxes of members of Armed Forces on death) is hereby amended by striking out "January 1, 1954" and inserting in lieu thereof "January 1, 1955".

SEC. 105. EXTENSION OF TEMPORARY PROVISIONS RELATING TO LIFE INSURANCE COMPANIES.

(a) TAX FOR 1953.—Sections 201 (a) (1) (relating to imposition of tax on life insurance companies), 203A (relating to 1951 and 1952 adjusted normal-tax net income of life insurance companies), and 433 (a) (1) (H) (relating to excess profits net income of life insurance companies) are each hereby amended by striking out "1951 and 1952" wherever appearing therein and inserting in lieu thereof "1953".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply only to taxable years beginning in 1953. The application of the amendment to section 201 (f) (relating to disallowance of double deductions) made by

section 336 (c) (2) of the Revenue Act of 1951 is hereby extended to taxable years beginning after December 31, 1952.

SEC. 106. EXTENSION OF PERIOD FOR EXEMPTION FROM ADDITIONAL ESTATE TAX OF MEMBERS OF ARMED FORCES UPON DEATH.

Section 939 (b) (relating to the tax treatment of estates of certain members of the Armed Forces) is hereby amended by striking out "JANUARY 1, 1954" and inserting in lieu thereof "JANUARY 1, 1955", and by striking out "January 1, 1954" and inserting in lieu thereof "January 1, 1955".

TITLE II—MISCELLANEOUS

SEC. 201. VENUE OF ACTIONS FOR VIOLATIONS OF ACT OF OCTOBER 19, 1949.

(a) AMENDMENT OF ACT.—Section 2 of the Act entitled "An Act to assist States in collecting sales and use taxes on cigarettes", approved October 19, 1949 (15 U. S. C., sec. 376), is hereby amended by striking out "forward to" and inserting in lieu thereof "file with".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply only in respect of memoranda or copies of invoices covering shipments made during the calendar month in which this Act is enacted and subsequent calendar months.

SEC. 202. DEDUCTION OF CERTAIN UNPAID EXPENSES AND INTEREST.

(a) AMENDMENT OF SECTION 24 (c).—Paragraph (1) of section 24 (c) (relating to disallowance of certain deductions for expenses incurred and interest accrued) is hereby amended to read as follows:

"(1) If within the period consisting of the taxable year of the taxpayer and two and one-half months after the close thereof (A) such expenses or interest are not paid, and (B) the amount thereof is not includible in the gross income of the person to whom the payment is to be made; and".

(b) EFFECTIVE DATE.—

(1) Except as otherwise provided in paragraph (2), the amendment made by subsection (a) shall apply only with respect to taxable years beginning after December 31, 1950.

(2) At the election of a taxpayer (hereinafter in this paragraph referred to as the "payor") made within one year after the date of the enactment of this Act, the amendment made by subsection (a) shall also apply with respect to such taxable years of the payor beginning after December 31, 1945, and before January 1, 1951, as are specified by the payor in making such election. Such election for any

taxable year shall not be valid as to any amount unless, at or before the time when such election is filed—

(A) the person (hereinafter in this paragraph referred to as the "payee") to whom such amount was payable included such amount in gross income for his taxable year for which such amount was includible in gross income, or

(B) the payee files a written consent to the assessment and collection of any deficiency and interest resulting from the payee's failure to include such amount in gross income for such taxable year, or

(C) the payor pays an amount equal to the deficiency and interest which would be payable by the payee pursuant to subparagraph (B) if he filed such consent. (Any amount paid under this subparagraph shall be assessed, notwithstanding any law or rule of law to the contrary, as an addition to the tax of the payor for the year for which the election is filed.)

The periods of limitation provided in sections 275 and 276 of the Internal Revenue Code on the making of an assessment and the beginning of distraint or a proceeding in court for collection shall, with respect to any deficiency and interest thereon resulting from any consent filed pursuant to subparagraph (B), include one year immediately following the

date such consent is filed, and such assessment and collection may be made notwithstanding any provision of law or any rule of law which otherwise would prevent such assessment and collection. If an election by a payor should be filed for a taxable year of the payor for which allowance of credit or refund of an overpayment is barred (at the time of such filing) by any law or rule of law, any consent filed by the payee in respect of any amount which represents expenses incurred or interest accrued by the payor for such year shall be void. If a consent requires the inclusion in the gross income of the payee for any taxable year of an amount which was erroneously included in the gross income of the payee for another taxable year and, on the date the consent is filed, correction of the effect of the error is prevented by the operation of any provision of the internal-revenue laws other than section 3761 of the Internal Revenue Code (relating to compromises), then the effect of the error shall be corrected in accordance with section 3801 of the Internal Revenue Code as if the consent were a determination under such section 3801 in which there is adopted a position maintained by the Secretary of the Treasury. The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out the provisions of this paragraph.

SEC. 203. BASIS OF CERTAIN PROPERTY TRANSFERRED IN TRUST.

(a) AMENDMENT OF SECTION 113 (a) (5).—The second sentence of section 113 (a) (5) (relating to the basis of property transmitted at death) is hereby amended by inserting immediately after the words "revoke the trust" the following: "or to make any change in the enjoyment thereof through the exercise of a power to alter, amend, or terminate the trust".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply (1) only in the case of property transferred by grantors dying after December 31, 1951, and (2) only with respect to taxable years ending after December 31, 1951.

SEC. 204. EARNED INCOME FROM SOURCES WITHOUT THE UNITED STATES.

(a) AMENDMENT OF SECTION 116 (a) (2).—Section 116 (a) (2) (relating to exclusion from gross income of earned income from sources without the United States) is hereby amended—

(1) by inserting "on or before April 14, 1953," after "amounts received";

(2) by striking out "such period" the second place it appears and inserting in lieu thereof "such period of 18 consecutive months"; and

(3) by adding at the end thereof the following new sentence: "For the purpose of applying section 107 to any amount of earned income described in this paragraph which is received after April 14, 1953, this paragraph shall not apply in computing the tax attributable to any portion of such amount deemed for the purpose of section 107 to have been received on or before April 14, 1953."

(b) WITHHOLDING OF TAX ON WAGES OF CITIZENS OUTSIDE THE UNITED STATES.—So much of section 1621 (a) (8) (relating to the definition of wages) as precedes subparagraph (B) thereof is hereby amended to read as follows:

"(8) (A) for services for an employer (other than the United States or any agency thereof) (i) performed by a citizen of the United States if, at the time of the payment of such remuneration, it is reasonable to believe that such remuneration will be excluded from gross income under section 116 (a), or (ii) performed in a foreign country by such a citizen if, at the time of the payment of such remuneration, the employer is required by the law of any foreign country to withhold income tax upon such remuneration, or".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to taxable years ending

after April 14, 1953. The amendments made by subsections (a) and (b) shall not affect the liability of any employer to deduct and withhold the tax imposed by section 1622 in the case of any remuneration paid before the first day of the first month beginning more than ten days after the date of the enactment of this Act.

SEC. 205. NET OPERATING LOSS CARRY-OVERS.

(a) AMENDMENT OF SECTION 122 (b) (2).—

(1) Section 122 (b) (2) (relating to net operating loss carry-over) is hereby amended by adding after subparagraph (D) the following new subparagraphs:

"(E) Loss For Taxable Years of Corporations Beginning In 1947 And Ending In 1948.—If a corporation (other than a corporation which commenced business after December 31, 1945) has a net operating loss for a taxable year beginning in 1947 and ending in 1948, subparagraph (C) shall apply as if the taxable year began after December 31, 1947: except that the net operating loss carry-over for the third succeeding taxable year shall not exceed that amount which bears the same ratio to the net operating loss as the number of days in the taxable year after December 31, 1947, bears to the total number of days in the taxable year.

"(F) Loss in Case of Corporations Whose

First Taxable Year Began in 1949 and Ended in 1950.—If the first taxable year of a corporation began in 1949 and ended in 1950, and if the corporation had a net operating loss for such first taxable year, there shall be a net operating loss carry-over for the fourth and fifth succeeding taxable years. The amount of such carry-over shall be determined in accordance with the first sentence of subparagraph (B); except that—

"(i) such carry-over for the fourth succeeding taxable year shall not exceed so much of such net operating loss as is allocable to 1950, and

"(ii) such carry-over for the fifth succeeding taxable year shall not exceed the amount by which the carry-over for the fourth succeeding taxable year (as limited by clause (i) of this sentence) exceeds the net income for the fourth succeeding taxable year computed as provided in clauses (i) and (ii) of the first sentence of subparagraph (B).

For the purposes of the preceding sentence, the portion of the net operating loss which is allocable to 1950 shall be an amount which bears the same ratio to such loss as the number of days in the taxable

year after December 31, 1949, bears to the total number of days in the taxable year."

(2) Subparagraph (A) of section 122 (b) (2) is hereby amended by striking out "subparagraph (D)," and inserting in lieu thereof "subparagraphs (D) and (E),".

(3) The amendment made by paragraph (2), and subparagraph (E) of section 122 (b) (2) of the Internal Revenue Code as added by paragraph (1), shall apply with respect to taxable years ending after December 31, 1947. Subparagraph (F) of section 122 (b) (2) of the Internal Revenue Code as added by paragraph (1) shall apply with respect to taxable years ending after December 31, 1949.

(b) SUCCESSOR RAILROAD CORPORATIONS.—

(1) Subsection (c) of the first section of the Act of July 15, 1947 (61 Stat. 324), relating to allowance to successor railroad corporations of benefits of certain carry-overs of predecessor corporations, is hereby amended to read as follows:

"(c) For the purposes of this section, if the period, beginning on the first day of the taxable year of the predecessor corporation in which the acquisition occurred and ending on the last day of the taxable year of the successor

corporation in which the acquisition occurred, is not more than twelve months, then—

"(1) if such net operating loss or unused excess profits credit was for a taxable year beginning before January 1, 1948, the number of succeeding taxable years to which such net operating loss or unused excess profits credit is a carry-over shall be three (instead of two, as respectively provided in section 122 (b) (2) (A) and section 710 (c) (3) (B) of such code); and

"(2) if such net operating loss was for a taxable year beginning after December 31, 1947, and before January 1, 1950, the number of succeeding taxable years to which such net operating loss is a carry-over shall be four (instead of three, as provided in section 122 (b) (2) (C) of such code);

and such regulations shall prescribe (as nearly as possible in the manner respectively prescribed in sections 122 (b) (2) and 710 (c) (3) (B) of such code with respect to a net operating loss or an unused excess profits credit, as the case may be, for such taxable year) the amount to be carried over to the last of such succeeding taxable years."

(2) The amendment made by paragraph (1) shall be effective as if included in such Act of July 15, 1947, at the time of its enactment.

SEC. 206. AMORTIZATION DEDUCTION FOR GRAIN STORAGE FACILITIES.

(a) ALLOWANCE OF DEDUCTION.—Supplement B of subchapter C of chapter 1 is hereby amended by inserting after section 124A the following new section:

"SEC. 124B. AMORTIZATION DEDUCTION FOR GRAIN STORAGE FACILITIES.

"(a) ALLOWANCE OF DEDUCTION.—

"(1) ORIGINAL OWNER.—Any person who constructs, reconstructs, or erects a grain storage facility (as defined in subsection (d)) shall, at his election, be entitled to a deduction with respect to the amortization of the adjusted basis (for determining gain) of such facility based on a period of sixty months. The sixty-month period shall begin as to any such facility, at the election of the taxpayer, with the month following the month in which the facility was completed, or with the succeeding taxable year.

"(2) SUBSEQUENT OWNERS.—Any person who acquires a grain storage facility from a taxpayer who—

"(A) elected under subsection (b) to take the amortization deduction provided by this subsection with respect to such facility, and

"(B) did not discontinue the amortization deduction pursuant to subsection (c).

shall, at his election, be entitled to a deduction with respect to the adjusted basis (determined under subsection (e) (2)) of such facility based on the period, if any, remaining (at the time of acquisition) in the sixty-month period elected under subsection (b) by the person who constructed, reconstructed, or erected such facility.

"(3) AMOUNT OF DEDUCTION.—The amortization deduction provided in paragraphs (1) and (2) shall be an amount, with respect to each month of the amortization period within the taxable year, equal to the adjusted basis of the facility at the end of such month, divided by the number of months (including the month for which the deduction is computed) remaining in the period. Such adjusted basis at the end of the month shall be computed without regard to the amortization deduction for such month. The amortization deduction above provided with respect to any month shall be in lieu of the deduction with respect to such facility for such month provided by section 23 (l) (relating to exhaustion, wear and tear, and obsolescence).

"(b) ELECTION OF AMORTIZATION.—The election of the taxpayer under subsection (a) (1) to take the amortization deduction and to begin the sixty-month period with the month following the month in which the facility was

completed shall be made only by a statement to that effect in the return for the taxable year in which the facility was completed. The election of the taxpayer under subsection (a) (1) to take the amortization deduction and to begin such period with the taxable year succeeding **such year** shall be made only by a statement to that effect in the return for such succeeding taxable year. The election of the taxpayer under subsection (a) (2) to take the amortization deduction shall be made only by a statement to that effect in the return for the taxable year in which the facility was acquired. Notwithstanding the preceding three sentences, the election of the taxpayer under subsection (a) (1) or (2) may be made, under such regulations as the Secretary may prescribe, before the time prescribed in the applicable sentence.

"(c) TERMINATION OF AMORTIZATION DEDUCTION.—A taxpayer which has elected under subsection (b) to take the amortization deduction provided in subsection (a) may, at any time after making such election, discontinue the amortization deduction with respect to the remainder of the amortization period, such discontinuance to begin as of the beginning of any month specified by the taxpayer in a notice in writing filed with the Secretary before the beginning of such month. The deduction provided under section 23 (l) shall be allowed, beginning with the first month as to which

the amortization deduction is not applicable, and the taxpayer shall not be entitled to any further amortization deduction with respect to such facility.

"(d) DEFINITION OF GRAIN STORAGE FACILITY.—For the purposes of this section, the term 'grain storage facility' means—

"(1) any corn crib, grain bin, or grain elevator, or any similar structure suitable primarily for the storage of grain, which crib, bin, elevator, or structure is intended by the taxpayer at the time of his election to be used for the storage of grain produced by him (or, if the election is made by a partnership, produced by the members thereof) ; and

"(2) any public grain warehouse permanently equipped for receiving, elevating, conditioning, and loading out grain,

the construction, reconstruction, or erection of which was completed after December 31, 1952, and on or before December 31, 1956. If any structure described in clause (1) or (2) of the preceding sentence is altered or remodeled so as to increase its capacity for the storage of grain, or if any structure is converted, through alteration or remodelling, into a structure so described, and if such alteration or remodelling was completed after December 31, 1952, and on or before December 31, 1956, such alteration or remodelling

shall be treated as the construction of a grain storage facility. The term 'grain storage facility' shall include only property of a character which is subject to the allowance for depreciation provided in section 23 (l). The term 'grain storage facility' shall not include any facility any part of which is an emergency facility within the meaning of section 124A.

"(e) DETERMINATION OF ADJUSTED BASIS.—

"(1) ORIGINAL OWNERS.—For the purpose of subsection (a) (1)—

"(A) in determining the adjusted basis of any grain storage facility, the construction, reconstruction, or erection of which was begun before January 1, 1953, there shall be included only so much of the amount of the adjusted basis (computed without regard to this subsection) as is properly attributable to such construction, reconstruction, or erection after December 31, 1952, and

"(B) in determining the adjusted basis of any facility which is a grain storage facility within the meaning of the second sentence of subsection (d), there shall be included only so much of the amount otherwise included in such basis as is properly attributable to the alteration or remodeling.

If any existing grain storage facility as defined in the first sentence of subsection (d) is altered or re-

modeled as provided in the second sentence of subsection (d), the expenditures for such remodeling or alteration shall not be applied in adjustment of the basis of such existing facility but a separate basis shall be computed in respect of such facility as if the part altered or remodeled were a new and separate grain storage facility.

"(2) SUBSEQUENT OWNERS.—For the purpose of subsection (a) (2), the adjusted basis of any grain storage facility shall be whichever of the following amounts is the smaller: (A) The basis (unadjusted) of such facility for the purposes of this section in the hands of the transferor, donor, or grantor, adjusted as if such facility in the hands of the taxpayer had a substitute basis within the meaning of section 113 (b) (2) (A), or (B) so much of the adjusted basis (for determining gain) of the facility in the hands of the taxpayer (as computed without regard to this subsection) as is properly attributable to construction, reconstruction, or erection after December 31, 1952.

"(f) DEPRECIATION DEDUCTION.—If the adjusted basis of the grain storage facility (computed without regard to subsection (e)) exceeds the adjusted basis computed under subsection (e), the deduction provided by section 23 (l) shall, despite the provisions of subsection (a) (3) of this

section, be allowed with respect to such grain storage facility as if the adjusted basis for the purpose of such deduction were an amount equal to the amount of such excess.

"(g) LIFE TENANT AND REMAINDERMAN.—In the case of property held by one person for life with remainder to another person, the amortization deduction provided in subsection (a) shall be computed as if the life tenant were the absolute owner of the property and shall be allowed to the life tenant."

(b) TECHNICAL AMENDMENTS.—

(1) Section 23 (t) is hereby amended to read as follows:

"(t) AMORTIZATION DEDUCTION.—The deduction for amortization provided in sections 124, 124A, and 124B."

(2) Section 172 is hereby amended by striking out "of emergency facilities".

(3) Section 190 is hereby amended by inserting after "emergency facilities" the following: "or grain storage facilities".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply only with respect to taxable years ending after the date of the enactment of this Act.

SEC. 207. EXCLUSION OF CERTAIN TRANSFERS TAKING EFFECT AT DEATH.

(a) DECEDENTS DYING AFTER FEBRUARY 10, 1939.—Paragraph (1) of section 811 (c) (relating to the inclusion of certain interests in the decedent's gross estate) is hereby amended by inserting after subparagraph (C) the following:

"Subparagraph (B) shall not apply to a transfer made before March 4, 1931; nor shall subparagraph (B) apply to a transfer made after March 3, 1931, and before June 7, 1932, unless the property transferred would have been includible in the decedent's gross estate by reason of the amendatory language of the joint resolution of March 3, 1931 (46 Stat. 1516)."

(b) DECEDENTS DYING BEFORE FEBRUARY 11, 1939.—For the purposes of section 302 (c) of the Revenue Act of 1926, as amended, an interest of a decedent shall not be included in his gross estate as intended to take effect in possession or enjoyment at or after his death unless it would have been includible as such a transfer under section 811 (c) (2) of the Internal Revenue Code, as amended by section 7 of Public Law 378, Eighty-first Congress, approved October 25, 1949 (63 Stat. 891), had such section 811 (c) (2), as so amended, applied to the estate of such dece-

dent. No refund or credit of any overpayment resulting from the application of this subsection shall be allowed or made if prevented by the operation of the statute of limitations or by any other law or rule of law; except that if the determination of the Federal estate tax liability in respect of the estate of any decedent dying before February 11, 1939, was pending on January 17, 1949, in the Tax Court of the United States or in any other court of competent jurisdiction, or if a decision of the Tax Court of the United States or such other court determining such estate tax liability did not become final until on or after January 17, 1949, then refund or credit of any overpayment resulting from the application of this subsection may, nevertheless, be made or allowed if claim therefor is filed within one year from the date of the enactment of this Act, notwithstanding section 319 (a) of the Revenue Act of 1926 or any other law or rule of law which would otherwise prevent the allowance of such refund or credit.

(c) INTEREST.—No interest shall be allowed or paid on any overpayment resulting from the application of this section with respect to any payment made before the date of the enactment of this Act.

(d) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply only with respect to estates of

decedents dying after February 10, 1939. Subsection (b) shall apply only with respect to estates of decedents dying before February 11, 1939.

SEC. 208. FAILURE TO RELINQUISH A POWER IN CERTAIN DISABILITY CASES.

(a) AMENDMENT OF SECTION 811 (d).—Section 811 (d) (relating to revocable transfers) is hereby amended by inserting after paragraph (3) thereof the following new paragraph:

"(4) EFFECT OF DISABILITY IN CERTAIN CASES.—For the purposes of this subsection, in the case of a decedent who was (for a continuous period beginning not less than three months before December 31, 1947, and ending with his death) under a mental disability to relinquish a power, the term 'power' shall not include a power the relinquishment of which on or after January 1, 1940, and on or before December 31, 1947, would, by reason of section 1000 (e), be deemed not to be a transfer of property for the purposes of chapter 4."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply only with respect to estates of decedents dying after December 31, 1950.

SEC. 209. REVERSIONARY INTERESTS IN CASE OF LIFE INSURANCE.

(a) DECEDENTS DYING AFTER JANUARY 10, 1941, AND BEFORE OCTOBER 22, 1942.—Effective with respect to estates of decedents dying after January 10, 1941, and before October 22, 1942, the proceeds of life insurance receivable by beneficiaries other than the executor shall not be included in the gross estate of a decedent under section 811 (g) of the Internal Revenue Code unless such proceeds would have been includible under section 404 (c) of the Revenue Act of 1942 (as amended by section 503 (a) of the Revenue Act of 1950) had such section 404 (c), as so amended, applied to such estate.

(b) INTEREST.—No interest shall be allowed or paid on any overpayment resulting from the application of subsection (a) with respect to any payment made before the date of the enactment of this Act..

SEC. 210. MARITAL DEDUCTION IN CERTAIN CASES WHERE DECEDENT DIED BEFORE APRIL 3, 1948.

(a) IN GENERAL.—In the case of an interest in property passing by will from the decedent, if the surviving spouse is entitled for life to all the income from such property, payable annually or at more frequent intervals, with power in the surviving spouse to use and consume such portion of the property as the surviving spouse may need or desire for her

(or his) comfortable support and maintenance, and with no power in any person other than the surviving spouse to appoint any part of such property, then—

(1) the interest so passing shall, for the purposes of subparagraph (A) of section 812 (e) (1) of the Internal Revenue Code, be considered as passing to the surviving spouse; and

(2) no part of the interest so passing shall, for the purposes of subparagraph (B) (i) of section 812 (e) (1) of the Internal Revenue Code, be considered as passing to any person other than the surviving spouse. Nothing in this subsection shall be construed to permit the same items to be twice deducted.

(b) ELECTION.—The provisions of subsection (a) shall apply only if the surviving spouse files an election under this section with the Secretary within one year after the date of the enactment of this Act under such regulations as the Secretary shall prescribe. If such election is so filed, the property subject to such power shall, notwithstanding any other provision of law, be considered for purposes of chapters 3 and 4 of the Internal Revenue Code as property as to which the surviving spouse had a general power of appointment exercisable by deed or will. If the surviving spouse has made an election pursuant to this section, the periods of limitation provided in chapters 3 and 4 of the

Internal Revenue Code on the making of an assessment and the beginning of distraint or a proceeding in court for collection shall, with respect to any deficiency and interest thereon resulting from such election, include one year immediately following the date such election is filed, and such assessment and collection may be made notwithstanding any provision of law or any rule of law which otherwise would prevent such assessment and collection.

(c) INTEREST.—No interest shall be allowed or paid on any overpayment resulting from the application of this section.

(d) EFFECTIVE DATE.—This section shall apply only with respect to estates of decedents dying after December 31, 1947, and on or before the date of the enactment of the Revenue Act of 1948. If refund or credit of any overpayment resulting from the application of subsections (a) and (b) is prevented on the date of the enactment of this Act, or within one year from such date, by the operation of any law or rule of law (other than section 3760 of the Internal Revenue Code, relating to closing agreements, and other than section 3761 of such code, relating to compromises), refund or credit of such overpayment may, nevertheless, be made or allowed if claim therefor is filed within one year from the date of the enactment of this Act.

SEC. 211. MITIGATION OF EFFECT OF STATUTE OF LIMITATIONS.

(a) AMENDMENT OF SECTION 3801 (b).—Section 3801 (b) (relating to circumstances of adjustment) is hereby amended by inserting after paragraph (5) the following new paragraphs:

"(6) Disallows a deduction or credit which should have been allowed to, but was not allowed to, the taxpayer for another taxable year, or to a related taxpayer; but this paragraph shall apply only if (A) the determination became final on or after July 1, 1952, and (B) credit or refund of the overpayment attributable to the deduction or credit which should have been allowed to the taxpayer or related taxpayer was not barred, by any law or rule of law, at or after the time the taxpayer first maintained before the Secretary or the Tax Court of the United States, in writing, that he was entitled to such deduction or credit in the taxable year for which it is so disallowed; or

"(7) Requires the exclusion from gross income of an item which is includible in the gross income of the taxpayer for another taxable year or in the gross income of a related taxpayer; but this paragraph shall apply only if (A) the determination became final on or after

July 1, 1952, and (B) assessment of deficiency under section 272 (a) by the Secretary for such other taxable year or against such related taxpayer was not barred, by any law or rule of law, at the time the Secretary first maintained in a notice of deficiency sent pursuant to section 272 (a) or before the Tax Court of the United States, that such item should be included in the gross income of the taxpayer for the taxable year to which the determination relates—".

(b) TECHNICAL AMENDMENTS.—

(1) Paragraph (5) of section 3801 (b) is hereby amended by striking out "transaction—" and inserting in lieu thereof "transaction; or".

(2) The second sentence of section 3801 (b) is hereby amended by striking out "Such" and inserting in lieu thereof "Except in cases described in paragraphs (6) and (7), such".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall be effective as if included in the Internal Revenue Code at the time of its enactment. In any case in which the determination referred to in paragraph (6) or (7) of section 3801 (b), as amended by subsection (a) of this section, became final before the

date of the enactment of this Act, the one-year period described in section 3801 (c) shall be extended to include the one-year period beginning with the date of the enactment of this Act.

83D CONGRESS
1ST SESSION

H. R. 6426

A BILL

To amend the Internal Revenue Code to extend the time during which certain provisions relating to income and estate taxes shall apply, and for other purposes.

By Mr. REED of New York

JULY 21, 1953
Referred to the Committee on Ways and Means

TECHNICAL CHANGES ACT OF 1953

REPORT

OF THE

COMMITTEE ON WAYS AND MEANS
HOUSE OF REPRESENTATIVES

TO ACCOMPANY

H. R. 6426

TO AMEND THE INTERNAL REVENUE CODE TO EXTEND THE TIME DURING WHICH CERTAIN PROVISIONS RELATING TO INCOME AND ESTATE TAXES SHALL APPLY, AND FOR OTHER PURPOSES

JULY 21, 1953.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1953

CONTENTS

83D CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
1st Session } { No. 894

TECHNICAL CHANGES, ACT OF 1953

JULY 21, 1953.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. REED of New York, from the Committee on Ways and Means, submitted the following

REPORT

[To accompany H. R. 6426]

The Committee on Ways and Means, to whom was referred the bill (H. R. 6426) to amend the Internal Revenue Code to extend the time during which certain provisions relating to income and estate taxes shall apply, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

I. GENERAL STATEMENT

H. R. 6426 contains 17 sections dealing with amendments to the Internal Revenue Code. Six of the sections extend the period during which certain provisions of the code will apply. The other 11 sections relate to amendments to the Internal Revenue Code providing for removal of inequities in income- and estate-tax cases. Your committee believes that it is important to take care of these inequities ahead of the general revision bill which will be considered next year.

II. EXPLANATION OF THE BILL

A. EXTENSION PROVISIONS

Section 101. Election as to recognition of gain in certain corporate liquidations

This section extends to 1953 the provisions of section 112 (b) (7) of the Internal Revenue Code dealing with the nonrecognition of gain in certain corporate liquidations. This provision which applied to certain liquidations in a single calendar month in 1951 was extended by the Revenue Act of 1951 to such liquidations in 1952 and is further extended by this bill to such liquidations occurring in a single calendar

month in 1953. Your committee believes that such an extension for 1 year is desirable to enable those who were unable to arrange for liquidation within the requisite period in 1951 or 1952 to have the benefits of this provision if they can complete such liquidations in a single calendar month in 1953.

Section 102. Extension of time for elections under Public Law 539 overruling Virginian Hotel case

In Public Law 539, approved July 14, 1952, Congress overruled the decision of the Supreme Court in the Virginian Hotel case. Under that decision a taxpayer who deducted depreciation for any year in excess of the amount allowable for such year was nevertheless required to reduce the basis of his property by the entire amount of depreciation allowed, even though he had received no tax benefit from claiming such excessive depreciation as a deduction. Under Public Law 539, the basis of the property was not required to be reduced by such excessive depreciation unless the taxpayer had received a tax benefit for taking a deduction for such excessive amount. The taxpayer was granted under the law an election (under such regulations as the Secretary prescribed) to apply this new treatment retroactively to the period since February 28, 1913, and before January 1, 1952, but no election could be made after December 31, 1952. The Treasury Regulations under the law were not promulgated until December 30, 1952. Thus taxpayers were not given sufficient time to determine whether such an election would be beneficial to them. Your committee therefore deems it desirable to extend through December 31, 1954, the time within which an election may be made. Since Public Law 539 provides that an election once made is irrevocable, the bill, in order to provide uniform treatment, permits taxpayers to revoke within the extended period elections made prior to January 1, 1953.

Section 103. Extension of time for making election with respect to war loss recoveries

Section 341 of the Revenue Act of 1951 sets forth a new method for treatment of war losses under section 127 of the Internal Revenue Code. It provides that at the election of the taxpayer (under such regulations as the Secretary may prescribe) the tax for the year in which the deduction for the war loss was taken is to be recomputed by reducing the deduction by the amount of the recovered property taken at its depreciated cost on the date of the loss or at its fair market value on the date of recovery, whichever is lower. The resulting increase in tax for the year of the loss, if any, is added to the tax for the year of recovery. The time for electing the benefit of this provision expired on December 31, 1952. Since the Treasury Regulations interpreting this section of the law were not promulgated until December 30, 1952, taxpayers did not have sufficient time to determine whether it was advantageous to make such an election. The bill extends the period for making such an election through December 31, 1953.

Section 104. Extension of period of abatement of income taxes of deceased members of Armed Forces

Section 154 of the Internal Revenue Code provides in the case of an individual who died after June 24, 1950, and prior to January 1, 1954, as a result of active service in a combat zone as a member of the

Armed Forces, an abatement of income tax liability which was outstanding at the date of his death. It also provides a forgiveness of the tax with respect to the taxable year in which falls the date of his death or with respect to any prior taxable year ending on or after the first day he so served in a combat zone after June 24, 1950. Your committee bill extends the period to which this section is applicable for one additional year so as to include the calendar year 1954.

Section 105. Extension of temporary provisions relating to life-insurance companies

The present temporary provisions for the taxation of life-insurance companies are extended for 1 year by this section of your committee's bill. Pending the results of studies being made by the staffs of the Treasury and the Joint Committee on Internal Revenue Taxation, your committee deems it advisable to continue for 1 year the provisions of present law.

Section 106. Extension of period for exemption from additional estate tax of deceased members of Armed Forces

Section 939 (b) of the Internal Revenue Code exempts from the additional estate tax estates of decedents dying after June 24, 1950, and before January 1, 1954, while in active service as members of the Armed Forces of the United States, where such decedents were killed in action while serving in a combat zone or died from wounds, disease, or injury incurred while so serving in line of duty and by reason of a hazard to which they were subjected as an incident of such service. Your committee's bill extends the application of this section to January 1, 1955.

B. Miscellaneous

Section 201. Venue of action for violation of State cigarette tax laws

The act of October 19, 1949, provided that persons, other than distributors, who sell or dispose of cigarettes in interstate commerce must forward to the tobacco tax administrators of States to which shipments are made monthly reports setting forth the names and addresses of the persons to whom shipments are made and the brand and quantity of cigarettes so shipped. Some courts have held that under the statute violations of the act are committed at the place from which the cigarettes are shipped, since the act only requires the shippers to forward their reports. The bill requires the actual filing of the reports with the State tobacco administrator. This would have the effect of assuring, in the event of an offense committed under the act, that the venue of the action would be in the district in which the State tobacco administrator has his office.

Section 202. Deduction of certain unpaid expenses and interest

In the case of certain closely related taxpayers, such as a corporation and a shareholder owning more than 50 percent of the corporation's stock, section 24 (c) of the code operates to disallow deduction of certain expenses and interest if the following conditions are met:

(1) The amount is not paid within the taxable year or within 2½ months after the close thereof; and

(2) Under the recipient's method of accounting the amount is not, unless paid, includible in his income in the taxable year in which, or with which, the taxable year of the payor corporation ends.

This provision is intended to insure that transactions between such related taxpayers do not operate to shift items of income or deductions. A situation has been called to the attention of your committee, however, where section 24 (c) may work an undue hardship. For example, a recipient on the cash basis may have an amount credited to his account and made available to him by the corporate payor within 2½ months after the close of the payor's taxable year so that the recipient must include it in income as an item constructively received in the taxable year so credited. If, however, the corporate taxpayer fails actually to pay over such amount within the period of 2½ months, the item will not be allowed to the corporation as a deduction. Your committee believes that such a case should not fall within the ban of section 24 (c) and the bill so provides by an appropriate amendment of requirement (1) above.

The amendment is applicable to taxable years of the payor beginning after December 31, 1950, but under certain conditions, set forth to insure that payments will be properly accounted for taxwise with respect to both parties, the payor may elect to make this amendment applicable to taxable years beginning after December 31, 1945, and before January 1, 1951.

Section 203. Income-tax basis of property transferred in trust

Section 113 (a) (5) of existing law contains a provision to the effect that where the grantor retains the income from property in trust for his life with power to revoke the trust, the basis of the property in the hands of the persons entitled to take the property under the terms of the trust instrument after the grantor's death shall, after such death, be the same as if the property had passed under a will executed on the day of the grantor's death. This results in the basis of the property in the hands of the recipients being its fair market value at the date of the grantor's death or, at the election of the executor, the value 1 year from the date of death. Your committee believes that this same rule should apply to situations where the grantor with a reserved life estate has the power to make any change in the enjoyment of the corpus of the trust through the power to alter, amend, or terminate the trust. In both cases, the trust property is required to be included in the gross estate of the grantor for estate-tax purposes. The amendment applies only to grantors dying after December 31, 1951, and only with respect to taxable years ending after December 31, 1951.

Section 204. Earned income from sources without the United States

Your committee deems it advisable to repeal section 116 (a) (2) of the Internal Revenue Code, effective as to amounts received after April 14, 1953. Section 116 (a) (2) excludes from income in the case of a citizen of the United States income earned abroad if such citizen was present in a foreign country or countries for a period of 17 out of 18 consecutive months. While this paragraph was designed to encourage men with technical knowledge to go abroad in order to complete specific projects, it has been subject to a great deal of abuse. Some individuals with large earnings have seized upon the provision as an inducement to go abroad to perform services, which were customarily performed at home, for the primary purpose of avoiding the Federal income taxes. It has also been ascertained that in many cases Americans taking advantage of this provision do not pay any income tax even to the foreign country or countries in which the

income is earned. This is because they are not in any particular foreign country long enough to establish a residence or because the foreign country in question does not impose any income tax. It is believed that the repeal should not be effective until April 15, 1953, so that taxpayers who went abroad will not be subject to a tax on their earnings received prior to notice that this provision would be eliminated. However, taxpayers were put on notice as to the possible repeal of section 116 (a) (2) by the introduction of a repeal bill on April 14, 1953, by the chairman of the committee and by the publication of correspondence with the Secretary of the Treasury, which was published in the Congressional Record of that date, in which the Secretary of the Treasury expressed concern over the manner in which this paragraph was being utilized for tax-avoidance purposes and expressed the hope that legislative treatment would be given to this problem to prevent such abuses. The bill will not affect the liability of any employer to deduct and withhold the tax on such earnings in the case of remuneration paid before the first day of the first month beginning more than 10 days after the date of the enactment of this act.

Section 205. Net operating loss deductions

Your committee has included provisions designed to eliminate disparities in the treatment of taxpayers in respect to the taxable years to which a net operating loss may be carried forward. Under these provisions the number of years to which a net operating loss may be carried forward by certain corporations reporting income on the basis of a fiscal year has been extended. Under the cutoff dates in existing law these corporations are limited in the use of their net operating losses. For example, under existing law, if a corporation has a taxable year beginning on December 1, 1947, a net operating loss developed in that year may only be carried forward to the 2 succeeding taxable years whereas if the taxable year had begun on January 1, 1948, such may be available to offset gains of the 3 succeeding taxable years.

Your committee has provided that in the case of a corporation, other than a corporation which commenced business after December 31, 1945, which has a net operating loss for a taxable year beginning in 1947 and ending in 1948 (so that the taxable year overlaps the critical dates) such a corporation may utilize such loss in the third succeeding taxable year. The amount of such carryover to the third year cannot exceed an amount which bears the same ratio to the net operating loss as the number of days in the loss year falling after December 31, 1947, is of the total number of days in the loss year.

In the case of a corporation the first taxable year of which began in 1949 and ended in 1950, a comparable extension is provided. Such corporations are put on a basis similar to that provided for corporations with net operating losses for taxable years beginning after 1949, that is, the net operating loss may be available for the 5 succeeding taxable years. However, your committee's amendment subjects the amount of the carryover to the fourth and fifth succeeding taxable years to a general limitation to such part of the net operating loss as is properly allocable to 1950.

Your committee has also added a provision amending section 1 of the act of July 15, 1947 (61 Stat. 324). This act allowed a carryforward of the net operating loss of a predecessor railroad corporation

to a successor railroad corporation. Since the reorganization may have caused a short taxable year of the predecessor and of the successor to fall within one 12-month period, such corporations would, in effect, be denied the full 2-year carryforward available to other corporations, the act allowed a carryover for 3 taxable years in such cases. Section 330 (b) of the Revenue Act of 1951 added section 122 (b) (2) (C) to the code which provided, in the case of all corporations, for a 3-year carryforward of a net operating loss incurred for any taxable year beginning after December 31, 1947, and before January 1, 1950. Accordingly your committee's amendment would allow a successor railroad corporation a 4-year carryover in order to continue the prior treatment under the act of July 15, 1947.

Section 206. Amortization deduction for grain-storage facilities

A critical shortage of facilities for storing grain has developed throughout the Nation during the past several years. This shortage has been felt particularly by producers of such grains as wheat and corn. In view of the situation which has arisen, your committee has felt impelled to provide an inducement for taxpayers to construct new grain-storage facilities, to increase the capacity of those already in existence, or to adapt existing construction to the storage of grain.

Under existing law, a taxpayer undertaking such expenditures would be allowed to recover his costs only through a deduction for depreciation taken over the period of the useful life of such new construction or adaptation. Your committee has added section 124B to the code to allow such costs in the case of construction or adaptation after December 31, 1952, and before January 1, 1957, to be deducted, at the taxpayer's election, over the period of 60 months beginning either with the month following the month in which the facility was completed, or with the succeeding taxable year. In the event that the shortage of facilities for storing grain remains in a critical state through 1956, your committee would consider it appropriate to extend the date within which a taxpayer may construct such facilities and receive the benefits of this provision. The deduction is available only with respect to taxable years ending after the date of the enactment of this act. In the case of new construction the deduction is only available with respect to so much of the cost as is attributable to construction after December 31, 1952, and in the case of the alteration or adaptation of existing buildings only such cost as is properly attributable thereto after such date may be so deducted.

This amortization deduction is in lieu of that allowed for depreciation, but a taxpayer is allowed to deduct ordinary depreciation for that part of his costs of construction which would not qualify under this section, for example, by reason of not having been incurred subsequent to December 31, 1952. A taxpayer may elect to discontinue his amortization deductions under this section as of the beginning of any month specified in a notice filed with the Secretary before the beginning of such month and may thereafter be allowed the depreciation deduction. In the case of property held by one person for life with remainder to another, the life tenant is allowed the deduction under this section as if he were the absolute owner. Special rules are provided to allow the benefits of this deduction to a person acquiring a grain-storage facility to which this section is applicable. These rules are discussed in the technical part of this report relating to this provision.

This special amortization deduction is available to a farmer constructing a grain-storage facility. The statute defines a grain-storage facility as a corncrib, grain bin, or grain elevator, or any similar structure primarily suited for the storage of grain, which is intended by the taxpayer at the time of his election to be used for the storage of grain produced by him. The deduction is also available to any person who constructs any public grain warehouse permanently equipped for handling grain. Under the definition of a grain-storage facility the special amortization deduction is not allowed to persons who store only grain purchased for consumption in their business. For example, persons engaged in the milling of flour who construct storage facilities for purchased grain used in such processing would not be allowed to deduct the cost of any facilities under this provision.

Section 207. Exclusion of certain transfers taking effect at death

Your committee has amended the estate-tax provisions of the code relating to certain transfers of property with retention of the income for life by the transferor. In 1930 the Supreme Court held that property so transferred should not be included in the taxable estate of the transferor. *May* v. *Heiner* (281 U. S. 238). In response to this and related decisions, on March 3, 1931, Congress adopted a joint resolution providing that such transfers were includible (46 Stat. 1516), and the Revenue Act of 1932 substantially reenacted the provisions of this joint resolution. The joint resolution was interpreted in 1938 as being only prospective in its operation so as not to apply the transfers made prior to the date of its adoption. *Hassett* v. *Welch* (303 U. S. 303).

In the face of what had long been regarded as the settled interpretation of the then existing estate-tax provisions relating to these pre-1931 transfers with retention of a life estate by the transferor, the Supreme Court in 1949 in effect overruled its two earlier decisions and held that a transfer of property in 1924, with income retained for life by the transferor, required that the transferred property be included in the taxable estate of the transferor who died in 1939. *Commissioner* v. *Church* (335 U. S. 632).

Following the Church decision the Technical Changes Act of 1949 (as amended) provided that, in the case of life estates retained in transfers made on or before March 3, 1931 (and in some cases before June 7, 1932), the property would not be included in the decedent's gross estate solely by reason of retention of the life estate if the decedent died after the enactment of the code on February 10, 1939, and prior to January 1, 1951. As that act was passed by the Senate, it contained provisions which would have restored the estate-tax law to what it was prior to the Church opinion, that is, pre-1931 transfers would not be included in the gross estate of the decedent merely by reason of the retention of a life estate, regardless of when the decedent died. This provision was limited in conference, however, in the manner described above.

Your committee now agrees that the effect of the Church decision should be eliminated in all cases to which it was applicable. Prior legislation has already restored the estate-tax law to what it was before the Church decision in respect to all decedents dying after the enactment of the code and prior to January 1, 1951. Your committee's provision accomplishes this same result in respect of decedents dying on or after January 1, 1951.

Your committee has also provided relief for certain decedents where the death occurred prior to February 11, 1939, and whose estates were burdened with estate tax by reason of transfers made before March 4, 1931, involving the retention of a life estate, the reservation of a minute reversionary interest, or both. Since property transferred in this manner would not be included in the gross estate if the decedent died after February 10, 1939 (and before 1951), your committee's amendment would achieve a similar exemption for estates of decedents dying prior thereto. However, your committee has not felt it necessary to open the statute of limitations to any great extent in cases of decedents dying prior to February 11, 1939. It is only in cases in litigation at the time of the Church decision where there would appear to be any undue hardship. In these cases a refund or credit resulting from this provision will be allowed if a claim is filed within 1 year from the date of enactment of this act.

Section 208. Failure to relinquish a power in certain disability cases

Grantors of discretionary trusts created prior to January 1, 1939, who had retained certain powers which would result in the inclusion of the trust property in their gross estate for estate tax purposes were, under section 1000 (e) of the code, permitted to relinquish such powers on or after January 1, 1940, and on or before December 31, 1947, free of gift tax. Your committee believes that grantors who were unable to relinquish their discretionary powers within the above period because of a mental disability should not be penalized. It is therefore provided that there shall not be included in a decedent's estate property previously transferred in trust as to which he retained certain discretionary powers if such decedent for at least 3 months prior to December 31, 1947, and continuing to the date of his death was under a mental disability such that he could not have relinquished such powers free of gift tax pursuant to section 1000 (e). The term "mental disability" is intended to encompass those cases in which the decedent during the requisite period prior to his death was, in fact, incapable because of his mental condition of relinquishing the power, whether or not he was legally declared mentally incompetent during all or any part of such period.

Section 209. Reversionary interests in case of life insurance

Section 404 (c) of the Revenue Act of 1942 (as amended by sec. 503 (a) of the Revenue Act of 1950) provided in the case of decedents dying after the date of its enactment (October 21, 1942) that the proceeds of life insurance policies should not be included in the decedent's estate by reason of premiums paid by the decedent prior to January 10, 1941, if the decedent at no time after that date retained an incident of ownership in such policy. In determining whether the decedent had such an "incident of ownership" after January 10, 1941, there was to be taken into account only those reversionary interests exceeding 5 percent of the value of the policy and arising other than by operation of law. Your committee believes that similar treatment should be extended in the case of decedents dying after January 10, 1941, and before October 22, 1942. Such decedents will be deemed to have an incident of ownership in insurance policies by reason of a reversionary interest held after January 10, 1941, only if such reversionary interest exceeded 5 percent of the value of the

policy and arose by the express terms of the policy or other instrument and not by operation of law.

Section 210. Marital deduction in certain cases where decedent died before April 3, 1948

The provisions of this section relate to the marital deduction for estate-tax purposes. The attention of your committee has been called to certain situations where a decedent died after December 31, 1947, but prior to the date of the enactment of the Revenue Act of 1948, which allowed a marital deduction for estate-tax purposes. Consequently, while the act applied to such cases, estates of decedents dying within this short period from January 1, 1948, to the date of its enactment on April 2, 1948, were unable to secure the benefit of its provisions in some cases because the will of the decedent was not in accord with certain technical requirements of the act. If the decedent had been alive after the enactment of the Revenue Act of 1948, his will would undoubtedly have been rewritten to conform to the provisions of the act. Thus, under the act, property subject to a power of appointment in order to be taken into account for purposes of the marital deduction must meet the requirements of section 812 (e) (1) (F) of the Internal Revenue Code. This section requires the interest in property passing from the decedent under a power of appointment to be in trust and the power to be unlimited and exercisable by the surviving spouse at all events. Cases have been called to the attention of your committee where the power granted to the surviving spouse was not in trust and was confined to a power in the surviving spouse to use and consume such portion of the property as the surviving spouse may need or desire for her (or his) comfortable support or maintenance. It is the opinion of your committee that in the case of a decedent dying after December 31, 1947, and prior to April 3, 1948, a power of this broad application should be considered as sufficient to permit the marital deduction of property subject to such power and the bill so provides. The section is only applicable if the surviving spouse files with the Secretary of the Treasury within 1 year after the date of the enactment of this act an election to take the benefits of the section. If such an election is made the property subject to such power shall be considered as property as to which the surviving spouse had a general power of appointment created on the date of the decedent's death, exercisable by deed or by will. Thus a reliquishment of such power by the surviving spouse during her lifetime will result in a taxable gift and if such power is not relinquished during the lifetime of the surviving spouse, the property subject to such power will be considered as part of the estate of such surviving spouse for estate-tax purposes.

Section 211. Mitigation of effect of statute of limitations

Section 3801 of the code allows either the taxpayer or the Commissioner to correct an improper tax result in certain cases where such action would otherwise be prevented by the running of the statute of limitations. This is possible by reason of the allowance under that section of an additional period of time beyond the period of limitations which would ordinarily be applicable. One of the principles of the present statute is to preclude any adjustment unless the hardship results from the maintenance of an inconsistent position by either the taxpayer or the Commissioner.

The statute operates effectively in cases to which it is directed, but your committee realizes that tax inequities, the correction of which is prevented by the running of the period of limitations, may exist without regard to whether or not the position maintained by either party is inconsistent. A taxpayer may be disallowed a deduction or credit to which he is entitled in another taxable year or to which a related taxpayer may be entitled. Similarly, the Commissioner may have included an item in income for a taxable year different from the year for which such item should have been included, or the Commissioner may have included the item in the income of a related taxpayer.

Under present law, the errors described may not be corrected if discovered after the expiration of the period of limitation in respect to the correct year of the taxpayer or of the proper taxpayer. Your committee's bill includes provisions amending section 3801 in order to open the statute of limitations in such cases. Where a taxpayer claims a deduction or credit for a taxable year which is later determined to be the incorrect taxable year, or which is determined properly to belong to a related taxpayer, the amendment would permit a proper adjustment. However, the taxpayer is entitled to the benefits of this provision only if a credit or refund of the overpayment attributable to the deduction or credit for the correct year or to the related taxpayer was not barred at the time the taxpayer formally asserted that he should have received such credit or refund in the year disallowed.

Similarly, the Commissioner would be allowed to make assessment of tax with respect to the proper taxable year, if at the time he formally asserted that an item was includible in income for a taxable year, later determined to be the incorrect year, he could have made a proper assessment of tax for the correct year. An opportunity to make a proper assessment would also be extended to the Commissioner under similar circumstances in the case of the related taxpayer.

The amendments added by your committee are applicable only where the determination relating to the disallowance of the deduction or credit, or the exclusion of the item from gross income, as the case may be, became final after June 30, 1952.

III. DETAILED DISCUSSION OF THE TECHNICAL PROVISIONS OF THE BILL

Title I—Extension Provisions

SECTION 101. ELECTION AS TO RECOGNITION OF GAIN IN CERTAIN CORPORATE LIQUIDATIONS

This section amends section 112 (b) (7) of the code (relating to election as to recognition of gain in certain corporate liquidations), which section is applicable under existing law only in cases in which the liquidation was pursuant to a plan adopted after December 31, 1950, and the transfer of all the property under the liquidation occurred within 1 calendar month in 1951 or 1952. The amendment made by this section extends section 112 (b) (7) for an additional year and makes it applicable to cases in which the liquidation is pursuant to a plan adopted after December 31, 1950, and the transfer of all the property under the liquidation occurs within 1 calendar month in 1951, 1952, or 1953. The effect of the section is, in general, to postpone the

reeognition of that portion of a qualified eleeting shareholder's gain on the liquidation whieh would otherwise be reeognized and whieh is attributable to appreeiation in the value of certain eorporate assets unrealized by the corporation at the time sueh assets are distributed in complete liquidation.

Sinee the only amendment made by your eommittee to seetion 112 (b) (7) is the insertion of the date 1953 after the dates 1951 and 1952 where they now appear in subparagraph (A) (ii), the date August 15, 1950, is still applieable in subparagraphs (B), (E), and (F) of that seetion (relating to the definition of exeluded eorporations and relating to the reeognition of gain to the shareholders from the reeeipt of money or of stoek or seeurities aequired by the liquidating eorporation after sueh date).

The amendment made by this section is applieable to taxable years ending after Deeember 31, 1952.

SECTION 102. EXTENSION OF TIME TO MAKE ELECTION IN RESPECT OF EXCESSIVE DEPRECIATION ALLOWED FOR PERIODS BEFORE 1952

This seetion amends seetion 113 (d) of the eode so as to extend through Deeember 31, 1954, the period within whieh a person may make the election provided in seetion 113 (d). This section also permits an election made on or before Deeember 31, 1952, to be revoked on or before Deeember 31, 1954.

Any eleetion made after December 31, 1952, under seetion 113 (d), as amended by this seetion, will be irrevoeable on the date made and shall be made in sueh manner as the Secretary may by regulations prescribe. If an eleetion made on or before Deeember 31, 1952, is revoked after sueh date, no new election may be made.

Neither an eleetion nor a revoeation of an eleetion by the transferor, donor, or grantor, shall affeet the basis of property in the hands of the transferee, donee, or grantee if sueh eleetion or revoeation was made after the date of the transfer, gift or grant of sueh property.

The eleetion under seetion 113 (d), as amended by this seetion shall apply in respeet of all property held by the person making the eleetion at any time on or before December 31, 1952.

SECTION 103. EXTENSION OF TIME FOR MAKING ELECTION WITH RESPECT TO WAR LOSS RECOVERIES

This seetion amends seetion 127 (e) (5) of the eode (relating to eleetions with respect to war losses) to extend from Deeember 31, 1952, to Deeember 31, 1953, the period during which a taxpayer may make an election to have the provisions of section 127 (e) (3) apply to war loss property which was recovered during a taxable year ending on or before Oetober 20, 1951. No ehange is made with respect to elections relating to sueh property reeovered during taxable years ending after October 20, 1951.

SECTION 104. EXTENSION OF PERIOD OF ABATEMENT OF INCOME TAXES OF MEMBERS OF ARMED FORCES UPON DEATH

This seetion amends seetion 154 of the Internal Revenue Code to eontinue for an additional year the abatement of income tax provided for members of the Armed Forces who die as the result of service in a combat zone.

Section 154 of the code now provides that in the case of an individual who dies after June 24, 1950, and prior to January 1, 1954, while in active service as a member of the Armed Forces of the United States, if such death occurred while serving in a combat zone (as determined under sec. 22 (b) (13) of the code) or as a result of wounds, disease, or injury incurred while so serving, (1) the income tax imposed by chapter 1 of the code shall not apply with respect to the taxable year in which he dies or with respect to any prior taxable year ending on or after the first day he so served in a combat zone after June 24, 1950, and (2) the income tax imposed by chapter 1 of the code and under the corresponding title of each prior revenue law for taxable years preceding his years of service in a combat zone which is unpaid at the date of his death shall be forgiven. This section merely continues this provision until January 1, 1955.

SECTION 105. EXTENSION OF TEMPORARY PROVISIONS RELATING TO LIFE-INSURANCE COMPANIES

This section would amend sections 201, 203A, and 433 of the Internal Revenue Code to provide that the method of taxing life-insurance companies used in 1951 and 1952 shall be extended 1 more year to apply with respect to taxable years beginning in 1953.

The amendment to section 201 continues for taxable years beginning in 1953 the flat-rate tax of 3¾ percent on the first $200,000 and 6½ percent on amounts in excess of $200,000 of adjusted normal-tax net income (as defined in sec. 203A). The injunction in section 201 (f) against construing sections 201, 202, 203, and 203A so as to permit a double deduction for the same items is continued for taxable years beginning after December 31, 1952.

The amendment to section 203A applies the definition of adjusted normal tax net income contained therein to taxable years beginning in 1953.

The amendment to section 433 (a) (1) (H) extends to 1953 taxable years the 87-percent reserve interest credit used in 1951 and 1952 in arriving at the normal tax net income of life-insurance companies for purposes of computing excess-profits net income.

SECTION 106. EXTENSION OF PERIOD FOR EXEMPTION FROM ADDITIONAL ESTATE TAX OF MEMBERS OF ARMED FORCES UPON DEATH

This section amends section 939 (b) of the Internal Revenue Code to continue for an additional year the existing exemption from the additional estate tax provided for members of the Armed Forces who die as the result of service in a combat zone.

Section 939 (b) of existing law provides that the tax imposed by section 935 (the additional estate tax) shall not apply to the transfer of the net estate of a citizen or resident of the United States dying after June 24, 1950, and before January 1, 1954, while in active service as a member of the Armed Forces of the United States, if such decedent (1) was killed in action while serving in a combat zone, as determined under section 22 (b) (13) or (2) died at any place as a result of wounds, disease or injury suffered, while serving in a combat zone (as determined under sec. 22 (b) (13)) and while in line of duty,

by reason of a hazard to which he was subjected as an incident of such service. This section merely continues the exemption until January 1, 1955.

TITLE II—MISCELLANEOUS

SECTION 201. VENUE OF ACTIONS FOR VIOLATIONS OF ACT OF OCTOBER 19, 1949

This section would amend section 2 of the act entitled "An act to assist States in collecting sales and use taxes on cigarettes," approved October 19, 1949.

Section 2 of that act provides that any person selling or disposing of cigarettes in interstate commerce whereby such cigarettes are shipped to other than a distributor licensed by or located in a State taxing the sale or use of cigarettes shall, not later than the 10th day of each month, forward to the tobacco-tax administrator of the State into which the shipment is made, a memorandum or a copy of the invoice covering each shipment made during the previous month into such State. The amendment made by subsection (a) of this section would require that the memorandum or copy of invoice be filed with, rather than forwarded to, the tobacco-tax administrator, so that actions for violations of the act may be brought in the judicial district where the tobacco-tax administrator of the State involved is located.

Subsection (b) of this section provides that the amendment shall apply only in respect of memorandums or copies of invoices covering shipments made during the calendar month in which this act is enacted and subsequent calendar months.

SECTION 202. DEDUCTION OF CERTAIN UNPAID EXPENSES AND INTEREST

Under the present provisions of section 24 (c) of the code no deduction is allowed for interest or expenses (1) if not paid within the taxable year or within 2½ months after the close thereof; and (2) if, by reason of the method of accounting of the person to whom the payment is to be made, the amount thereof is not, unless paid, includible in the gross income of such person for the taxable year in which or with which the taxable year of the taxpayer ends; and (3) if, at the close of the taxable year of the taxpayer or at any time within 2½ months thereafter, both the taxpayer and the person to whom the payment is to be made are persons between whom losses would be disallowed under section 24 (b) of the code. In general, section 24 (c) has been interpreted as requiring actual payment (cash or negotiable paper having a determinable market value) of the expense or interest not later than 2½ months after the close of the taxable year. This construction has resulted in the denial of deductions to taxpayers in some cases even though by application of the doctrine of constructive receipt the amount for which the deduction is claimed is required to be included in the gross income of the payee during the 2½ months after the close of the payor's taxable year.

Section 202 of this bill amends section 24 (c) (1) of the code to prevent the disallowance of a deduction for interest or expenses if the amount thereof is includible in the gross income of the payee within the taxable year of the payor or within the 2½ months following the close of such taxable year.

Paragraph (b) (1) of section 202 of this bill provides that subsection (a) shall be applicable to taxable years of the payor beginning after December 31, 1950.

Paragraph (b) (2) provides that, if the taxpayer (payor) so elects within 1 year after the date of the enactment of this act, subsection (a) shall also apply to such taxable years of the taxpayer which began after December 31, 1945, and before January 1, 1951, as are specified in the election. This election for any taxable year will not be valid unless at or before the time of filing such election, (A) the payee has included the amount deductible by the taxpayer in gross income for the taxable year in which it was includible, (B) the payee files a written consent to the assessment and collection of any deficiency and interest attributable to the noninclusion of such amount in gross income for such taxable year, or (C) the taxpayer pays an amount equal to the deficiency and interest which would be assessed if the payee had filed such consent.

The period of limitations provided in sections 275 and 276 of the code on the making of an assessment and the beginning of distraint or a proceeding in court for collection shall, with respect to any deficiency and interest thereon resulting from the filing of the consent required in (B) above, include 1 year following the date such consent was filed if such period of limitations otherwise would expire before the end of such 1-year period. The assessment and collection may be made notwithstanding any provision of law or any rule of law which otherwise would prevent such assessment and collection.

If an election by a taxpayer is filed for a taxable year for which the allowance of a credit or refund of an overpayment is barred, at the time of filing the election, by any law or rule of law, then any consent filed by the payee pursuant to this subsection with respect to such year shall be void.

If the payee is required to include in gross income pursuant to his consent an amount which was erroneously included in his gross income for another taxable year and, on the date the consent is filed, proper adjustment for the other taxable year is prevented by a provision of the internal revenue laws other than section 3761 (relating to compromises), then the error shall be corrected in accordance with the provisions of section 3801 of the code as if such consent were a determination under section 3801 of the code in which there is adopted a position maintained by the Secretary of the Treasury.

SECTION 203. BASIS OF CERTAIN PROPERTY TRANSFERRED IN TRUST

Subsection (a) of section 203 of the bill amends section 113 (a) (5) of the code, relating to the basis of property transmitted at death, to extend the application of that section to property acquired under the terms of certain types of trust instruments.

If property is transferred in trust to pay the income for life to, or upon the order or direction of, the grantor with the right reserved to the grantor at all times prior to his death to revoke the trust, section 113 (a) (5) of existing law provides that the basis of such property in the hands of persons entitled under the terms of the trust instrument to the property after the grantor's death shall, after such death, be the same as though the trust instrument had been a will executed by

the grantor on the date of his death. This section of the bill would provide the same rule in cases where the grantor (in addition to reserving rights in the income) under the terms of the trust instrument had reserved the right at all times prior to his death to make a change in the enjoyment thereof through the exercise of a power to alter, amend, or terminate the trust. This amendment, like the provisions of existing law, is intended to apply only to property which forms a part of the corpus of the trust at the time of the grantor's death.

Subsection (b) of section 203 of the bill provides that the amendment made by subsection (a) shall apply only in the case of property transferred by grantors dying after December 31, 1951, and only with respect to taxable years ending after December 31, 1951.

SECTION 204. EARNED INCOME FROM SOURCES WITHOUT THE UNITED STATES

Under present section 116 (a) (2) a citizen of the United States may exclude from gross income all amounts received from sources without the United States which constitute earned income (as specifically defined) attributable to any period of 18 consecutive months during which the taxpayer is physically present in a foreign country or countries for a total of at least 510 full days. Amounts paid by the United States or any agency thereof do not come within the exclusion.

This section limits the exclusion from gross income provided by section 116 (a) (2) of the code to amounts received or accrued, depending upon the taxpayer's method of accounting, on or before April 14, 1953, provided such amounts otherwise meet the requirements of section 116 (a) (2). Amounts received or accrued, depending upon the taxpayer's method of accounting, after April 14, 1953, may not be excluded under section 116 (a) (2).

The amendment has no effect on the running of the 18-month period during which a taxpayer may qualify with respect to the exclusion of income received on or before April 14, 1953. Thus, a part of the 18-month qualifying period may occur after April 14, 1953.

The amendment made by this section provides with regard to an amount received after April 14, 1953, in the case of a taxpayer entitled to the benefits of section 107, that the computations under section 107 shall be made without regard to the exclusion provided by section 116 (a) (2).

Subsection (b) amends section 1621 (a) (8) (A) of the code to provide that there will be no withholding on remuneration paid to an employee if it is reasonable to believe that such remuneration will be excluded from gross income under section 116 (a) of the code. Under present law, withholding is required with regard to remuneration for services which may be excluded from gross income under section 116 (a) (1) or (2) in cases where the remuneration is for services performed outside the United States but not within a foreign country, for example, remuneration for services performed on the high seas.

Subsection (c) provides that the amendment to section 1621 (a) (8) (A) shall not affect the liability of any employer to deduct and withhold tax imposed by section 1622 in the case of any remuneration paid before the first day of the first month beginning more than 10 days after the date of enactment.

SECTION 205. NET OPERATING LOSS CARRYOVERS

(*a*) *Amendment of section 122 (b) (2)*

Section 122 (b) (2) of the Internal Revenue Code provides, in general, that a net operating loss sustained in a taxable year beginning prior to January 1, 1948 (to the extent that it is not absorbed as a carryback), can be carried over to the 2 succeeding taxable years, and similarly that a net operating loss sustained in a taxable year beginning after December 31, 1947, and before January 1, 1950, can be carried over to the 3 succeeding taxable years. Subsection (a) of section 205 would amend section 122 (b) (2) of the code to provide that a corporation which has a net operating loss for a taxable year beginning in 1947 and ending in 1948 may likewise carry such loss forward to the 3 succeeding taxable years. The carryover to the third succeeding taxable year, however, shall not exceed that amount of the net operating loss which bears the same ratio to the loss as the number of days in the taxable year after December 31, 1947, bears to the total number of days in the taxable year. The amendment in effect would thus allow that portion of the loss attributable to 1948 to be carried over for 3 taxable years to the extent that it has not been absorbed by the income of prior and intervening years. The amendment has no application to a corporation which commenced business after December 31, 1945, since such a corporation, under the present provisions of section 122 (b) (2) (D), may carry a net operating loss sustained in a taxable year beginning after December 31, 1946, and before January 1, 1948, forward to the 3 succeeding taxable years.

Section 122 (b) (2) (B) of the code provides that a net operating loss sustained in a taxable year beginning after December 31, 1949, may be carried over to the five succeeding taxable years. Subsection (a) of section 205 would also amend section 122 (b) (2) to provide that if the first taxable year of the corporation began in 1949 and ended in 1950 and if it sustained a net operating loss in that taxable year, so much of the net operating loss as is allocable to 1950 may be carried forward to the fourth and fifth succeeding taxable years. The amount of the net operating loss which is allocable to 1950 is determined by dividing the loss by the number of days in the taxable year and multiplying by the number of days of the taxable year which fell in 1950. The amount of the carryover is determined in accordance with the first sentence of section 122 (b) (2) (B), which amount is the excess of the net operating loss over the sum of the net income for each of the intervening years computed with the limitations, additions, and exceptions in clauses (i) and (ii) of that sentence, except that the carryover to the fourth succeeding taxable year is limited to the amount of loss allocable to 1950, and is limited for the fifth succeeding taxable year to the portion of the loss allocable to 1950 minus the amount of the loss absorbed by the fourth year.

(*b*) *Successor railroad corporations*

Subsection (b) of section 205 amends section 1 (c) of Public Law 189, 80th Congress. Public Law 189 allows the successor corporation in the case of certain reorganized railroads to have the benefit of the carryovers of the net operating losses and unused excess-profits credits of the predecessor corporation. At the time of the enactment of Public Law 189 all taxpayers were allowed a 2-year carryover of net

operating losses under the provisions of section 122 of the Internal Revenue Code. Section 1 (c) of Public Law 189 in effect provided that if the period beginning on the first day of the taxable year of the predecessor corporation in which the acquisition occurred and ending on the last day of the taxable year of the successor corporation in which the acquisition occurred was not more than 12 months, then the net operating loss or unused excess-profits credit would be carried over for 3 years instead of 2 years as in the case of all other corporations. This provision was inserted in the statute because the last taxable year of the predecessor corporation and the first taxable year of the successor corporation in such a case would be short taxable years and it was desired in effect to give the successor corporation, as in the case of other corporations, the benefit of the carryovers for a full 2-year period. Section 330 (b) of the Revenue Act of 1951, however, added section 122 (b) (2) (C) to the code which provided that a net operating loss sustained in a taxable year beginning after December 31, 1947, and before January 1, 1950, could be carried forward for 3 taxable years by all taxpayers. Section 205 (b) of this bill accordingly amends section 1 (c) of Public Law 189 to provide a 4-year carryover of a net operating loss sustained in a taxable year beginning after December 31, 1947, and before January 1, 1950, in the case of such reorganized railroads. The amendment in effect will make the results under Public Law 189 conform to those obtained by all corporations under section 122 (b) (2) (C) of the code. The amendment is to be effective as if included in Public Law 189 at the time of its enactment.

SECTION 206. AMORTIZATION DEDUCTION FOR GRAIN STORAGE FACILITIES

Subsection (a) of this section adds new section 124B to the code, providing an amortization deduction for grain storage facilities. Under section 124B (a) the taxpayer may elect to amortize the adjusted basis (for determining gain) of a grain storage facility over a period of 60 months. The amortization deduction is allowable to (1) the original owner of a grain storage facility, i. e., the person who constructs, reconstructs, or erects such facility, or (2) any subsequent owner who acquires such a facility from another person who had made a valid election to take the amortization deduction and had not discontinued such deduction under section 124B (c). The deduction is allowable to a subsequent owner only if the original owner and each intervening owner elects to claim the amortization deduction, and neither the original owner nor any intervening owner had discontinued the amortization deduction under section 124B (c) prior to his disposition of the facility.

In the case of the original owner who constructs, reconstructs, or erects a grain-storage facility, the amortization period is a period of 60 months. He may elect to begin such period with respect to any grain storage facility either with the month following the month in which the facility was completed or with the beginning of the succeeding taxable year. In the case of a subsequent owner, the amortization period is the period, if any, remaining at the time of his acquisition in the 60-month period elected under section 124B (b) by the person who originally constructed, reconstructed, or erected the facility.

The amount of the amortization deduction under section 124B (a) is an amount with respect to each month of the amortization period within the taxable year equal to the adjusted basis of the facility at the end of such month divided by the number of months remaining in the period, including the month for which the deduction is to be computed. The adjusted basis of the facility at the end of any month is to be computed without regard to the amortization deduction for such month. The amortization deduction with respect to any month is in lieu of any deduction with respect to the facility for that month provided by section 23 (l) of the code, relating to the allowance for depreciation.

The original owner of a grain storage facility may elect to take the amortization deduction with respect to such facility and to begin the 60-month amortization period either with the month following the month in which the facility was completed or with the beginning of the succeeding taxable year. In either event the election is to be made by a statement in the taxpayer's return for the taxable year involved to the effect that the taxpayer elects to take the amortization deduction with respect to the particular facility and to begin the 60-month period at the time designated in the statement. In the case of a subsequent owner the election to take the amortization deduction must be made by a statement to that effect in the return for the taxable year in which the facility was acquired by him. However, under regulations to be prescribed by the Secretary, either an original owner or a subsequent owner may make the election under section 124B (b) prior to the filing of the return.

Any taxpayer, whether the original owner or a subsequent owner of the grain storage facility who has elected under section 124B (b) to claim the amortization deduction with respect to such facility, may, at any time after making the election, discontinue the amortization deduction as to the remainder of the amortization period. Such discontinuance shall become effective as of the beginning of any month, during which the taxpayer holds the facility, which is specified by the taxpayer in a notice in writing filed with the Secretary before the beginning of such month. From the beginning of the month specified for the discontinuance of the amortization deduction the deduction allowable under section 23 (l) of the code shall be allowed, and neither the taxpayer nor any subsequent owner of the grain storage facility shall be entitled to any further amortization deduction with respect to such facility.

Section 124B (d) defines the term "grain storage facility" to mean—

(1) any cornerib, grain bin, or grain elevator, or any similar structure suitable primarily for the storage of grain, which crib, bin, elevator, or structure is intended by the taxpayer, at the time of his election to claim the amortization deduction, to be used for the storage of grain produced by him or, if the election is made by a partnership, by the members thereof, and

(2) any public grain warehouse permanently equipped for receiving, elevating, conditioning, and loading out grain.

The intent referred to in clause (1) above must be present at the time the election is made, whether the election is being made by the original owner or by the subsequent owner.

The definition contained in section 124B (d) does not include any facility unless the construction, reconstruction, or erection of such facil-

ity was completed after December 31, 1952, and on or before December 31, 1956. However, if any structure described in clause (1) or (2) above is altered or remodeled so as to increase its capacity for the storage of grain, or if an existing structure not described in clause (1) or (2) above is converted through alteration or remodeling into a structure so described, such alteration or remodeling is to be treated as the "construction" of a grain storage facility, provided such alteration or remodeling was completed after December 31, 1952, and on or before December 31, 1956. The term "grain storage facility" as used in section 124B does not include a facility any part of which constitutes an "emergency facility" within the meaning of section 124A. Nor does "grain storage facility" include any property which is not of a character which is subject to the allowance for depreciation provided in section 23 (l). Thus, "grain storage facility" does not include the land on which a structure defined in clause (1) or (2) above is erected.

Section 124B (e) provides for the determination of the adjusted basis of a grain storage facility in the hands of a taxpayer for the purposes of section 124B (a). In determining the adjusted basis of any grain storage facility in the hands of the original owner where the construction, reconstruction, or erection of the facility was begun before January 1, 1953, there is to be included only so much of the amount of the adjusted basis computed without regard to subsection (e) as is properly attributable to construction, reconstruction, or erection after December 31, 1952. In the case of any alteration or remodeling of a structure which alteration or remodeling under section 124B (d) is treated as a construction of a grain storage facility, the adjusted basis of any such facility in the hands of the original owner is to be determined by including only that portion of the adjusted basis of the facility computed without regard to section 124B (e) as is properly attributable to such alteration or remodeling as was completed after December 31, 1952, and on or before December 31, 1956.

If any existing grain storage facility completed after December 31, 1952, is (prior to January 1, 1957) altered or remodeled so as to increase its capacity for the storage of grain, such remodeling or alteration shall be considered a new and separate grain storage facility, and the expenditures for such remodeling or alteration shall not be applied in adjustment of the basis of the preexisting facility, but a separate basis shall be computed for such remodeling or alteration. Such remodeling or alteration shall also constitute a new and separate "grain storage facility" for the purpose of the election under subsection (b) of section 124B to take the amortization deduction and to begin the 60-month period.

Under the provisions of section 124B (e) the adjusted basis of a grain storage facility for the purpose of computing the amortization deduction may differ from what would otherwise constitute the adjusted basis of such facility, in that the adjusted basis for the purpose of section 124B (a) may be only a portion of the adjusted basis (for determining gain) of the grain storage facility computed for other purposes. Thus, the adjusted basis for the purpose of computing the amortization deduction will be only a portion of the adjusted basis computed under section 113 (b) where only a portion of the basis (unadjusted) is attributable to construction, reconstruction, or erection after December 31, 1952. Also, in the case of any alteration or remodeling which is treated under section 124B (d) as the construction

of a grain storage facility, the adjusted basis of the facility for the purpose of the amortization deduction will include only that portion of the adjusted basis of the facility, otherwise determined without regard to section 124B (e), as is properly attributable to such alteration or remodeling as was completed after December 31, 1952. In these cases, therefore, it is necessary to determine the unadjusted basis for the grain storage facility from which the adjusted basis for amortization purposes is derived. The adjusted basis of the grain storage facility for amortization purposes is the unadjusted basis for amortization purposes less the adjustment properly applicable thereto. Such adjustments are those specified in section 113 (b) of the code, except that no adjustments are to be taken into account which increase the adjusted basis of the grain storage facility for the purposes of the amortization deduction.

In the case of a subsequent owner of any grain-storage facility the adjusted basis of such facility in his hands for the purpose of section 124B (a) shall be determined by including only the smaller of the following amounts: (1) The basis of such facility for the purposes of section 124B in the hands of the transferor, donor, or grantor, adjusted as if such facility in the hands of the taxpayer had a substituted basis within the meaning of section 113 (b) (2) (A), or (2) so much of the adjusted basis (for determining gain) of the facility in the hands of the taxpayer, computed without regard to section 124B as is properly attributable to construction, reconstruction, or erection after December 31, 1952.

Likewise, in the case of a subsequent owner of a grain-storage facility the adjusted basis of a facility for the purpose of computing the amortization deduction may differ from what would otherwise constitute the adjusted basis of such facility, in that the adjusted basis for the purpose of the amortization deduction may be determined by reference to the unadjusted basis for amortization purposes in the hands of the prior owner less the adjustments properly applicable to such prior owner.

The provisions of section 124B (e) may be illustrated by the following examples:

Example (1).—On February 28, 1953, A completes the construction of a grain storage facility as defined in section 124B (d) at a cost of $2,000 for the land and $6,000 for the construction. Only $3,000 of the total cost of the facility is properly attributable to construction after December 31, 1952. A elects to claim the amortization deduction and to begin the 60-month period on March 1, 1953. Under section 124B (e) the adjusted basis of the facility for the purpose of section 124B (a) as of that date is only $3,000, the amount attributable to construction after December 31, 1952. In determining the adjusted basis of the facility as of any subsequent date for the purpose of computing the amortization deduction, the amortization deductions allowable in respect of the period prior to such date must, of course, be taken into account. See section 113 (b) of the code. Thus, the adjusted basis of the facility for the purpose of computing the amount of the amortization deduction allowable for the month of January, 1954, is $2,500 ($3,000 minus $500, the amortization deductions allowable prior to January 1, 1954).

Example (2).—A began on January 1, 1953, and completed on June 30, 1953, the construction of a grain storage facility as defined in section 124B (d) at a cost of $5,000 for the land and $30,000 for the

construction. A elects to claim the amortization deduction and to begin the 60-month period on July 1, 1953. On May 1, 1954, A sells the grain storage facility to B for a price of $34,000 of which $6,000 is allocable to the land. B elects to claim the amortization deduction on the basis of the 50 months remaining in the amortization period. B, in determining the adjusted basis of the facility in his hands, must start with the unadjusted basis of the facility in the hands of A ($30,000) and adjust such basis under section 113 (b) (1) (B) in respect of amortization claimed by A during his ownership of the facility ($5,000). Since this amount ($25,000) is smaller than the adjusted basis (for determining gain) of the facility in B's hands as of May 1, 1954, ($28,000, that is $34,000 less $6,000 allocable to land), the adjusted basis of the facility for the purpose of section 124B (a) in B's hands as of May 1, 1954, is $25,000. A, therefore, may include only $25,000 in determining the adjusted basis of the facility in his hands as of May 1, 1954, the date of the purchase. The amortization deductions claimed by B must, of course, be applied in reduction of such adjusted basis in determining the adjusted basis of the facility as of any subsequent date for the purpose of his amortization deduction under section 124B (a). The amount by which the purchase price paid by B and allocable to depreciable property ($28,000) exceeds the adjusted basis determined under section 124B (e) for such property ($25,000)—or $3,000—is treated as the adjusted basis (as of May 1, 1954) for the purpose of the depreciation deduction allowable under section 23 (l).

As indicated in example (2) above, if the adjusted basis of any grain-storage facility computed without regard to section 124B (e) exceeds the adjusted basis of such facility computed under section 124B (e), the deduction provided by section 23 (l) shall, despite the provisions of section 124B (a) (3), be allowed with respect to the grain-storage facility as if the adjusted basis for the purpose of the section 23 (l) deduction were an amount equal to the amount of such excess.

In the case of property held by one person for life with remainder to another person, section 124B (g) provides that the amortization deduction shall be computed as if the life tenant were the absolute owner of the property and provides that such deduction shall be allowed to the life tenant.

Subsection (b) of this section makes certain technical amendments. Paragraph (1) amends section 23 (t) of the code to include the amortization deduction provided in section 124B. Paragraph (2) amends section 172 of the code to strike out the phrase "of emergency facilities," and thus conforms this section to the amendment made in section 23 (t). Paragraph (3) amends section 190 of the code to provide the same treatment in the case of grain-storage facilities owned by a partnership as in the case of emergency facilities of the partnership.

Under subsection (c) the amendments made by subsection (a) and (b) of this section shall apply only with respect to taxable years ending after the date of the enactment of the bill.

SECTION 207. EXCLUSION OF CERTAIN TRANSFERS TAKING EFFECT AT DEATH

Section 811 (c) (1) (B) of the Internal Revenue Code provides for the inclusion in the decedent's gross estate for estate-tax purposes of

certain transfers in which the decedent retained the income interests for life. Under section 7 (b) of Public Law 378, 81st Congress, as amended by section 608 of the Revenue Act of 1951, transfers of this type made prior to March 4, 1931, or in some cases prior to June 7, 1932, are not includible under section 811 (c) (1) (B) if the decedent died prior to January 1, 1951. Subsection (a) would amend section 811 (c) (1) of the code to exempt from section 811 (c) (1) (B) transfers made prior to the dates indicated where the decedent died at any time after February 10, 1939.

In the case of *Commissioner* v. *Church* (335 U. S. 632) the Supreme Court held that a transfer in which the decedent retained the income interests until death is includible in the decedent's gross estate as a transfer intended to take effect in possession or enjoyment at or after death. However, section 811 (c) (2) of the code as added by section 7 of Public Law 378 (81st Cong.) provides that transfers made prior to October 8, 1949, are not subject to tax under section 811 (c) (1) (C), applicable to transfers intended to take effect in possession or enjoyment at or after death (even though the decedent has reserved a life estate) unless the decedent has retained a reversionary interest in the transferred property arising by the express terms of the instrument of transfer and exceeding in value 5 percent of the value of the transferred property. Since section 811 (c) (2) is applicable only to estates of decedents dying after February 10, 1939, reserved income transfers made before March 4, 1931, may still be includible under section 811 (c) in the estates of decedents dying on or before February 10, 1939, even though the value of the decedent's reversionary interest is less than 5 percent. Subsection (b) of this section of the bill would apply the limitations of section 811 (c) (2) to the estate of a decedent dying before February 11, 1939.

Subsection (b) also provides a rule for cases in which the refund or credit of any overpayment resulting from the application of subsection (b) of this section is barred. The rule provides that if refund or credit resulting from the application of subsection (b) is prevented by the operation of the statute of limitations or by any other law or rule of law and the determination of estate-tax liability of the estate of any decedent dying before February 11, 1939, was pending on January 17, 1949, in the Tax Court or any court of competent jurisdiction, or the decision of any such court did not become final until on or after that date, then refund or credit may nevertheless be allowed if claim therefor is filed within 1 year from the date of enactment of this act. A refund is considered as resulting from the application of this subsection if its application removes an offsetting adjustment otherwise preventing a refund or credit.

SECTION 208. FAILURE TO RELINQUISH A POWER IN CERTAIN DISABILITY CASES

Under section 811 (d) of the Internal Revenue Code there is required to be included in the gross estate for estate-tax purposes certain property transferred in trust by the decedent during his lifetime where the decedent reserved the right to change the trust beneficiaries, but had no power to revest the trust property in himself. Section 208 of the bill would exempt from this particular provision certain trusts of this type where the decedent died after December 31, 1950, and was under a mental disability for a continuous period beginning not less than 3 months prior to December 31, 1947, and ending with his death.

In cases covered by the amendment made by this section, the decedent, if not under a mental disability, could have taken advantage of section 1000 (c) of the Internal Revenue Code to release, free of gift tax, the power to change the trust beneficiaries. As a result of such a release the trust property would ordinarily not have been includible in his gross estate under the provisions of section 811 (d) of the code. This section places the grantor of such a trust in the same position for estate-tax purposes as he would have been if he had been mentally able to release the described power, and had done so. This section would apply even though a guardian could have released the power for the decedent. The term "mental disability" as used in this amendment means mentally incompetent to make the release, whether or not there was a court adjudication of such incompetence.

SECTION 209. REVERSIONARY INTERESTS IN CASE OF LIFE INSURANCE

This section applies the rules contained in section 404 (c) of the Revenue Act of 1942, as amended by section 503 (a) of the Revenue Act of 1950, relating to reversionary interests in the case of life insurance, to estates of decedents dying after January 10, 1941, and before October 22, 1942.

Section 404 of the Revenue Act of 1942 generally revised the provisions governing the estate tax treatment of life insurance payable to beneficiaries other than the executor. Under the revised treatment one basis for subjecting such life insurance to estate tax is payment of premiums by the decedent. For this purpose section 404 (c) provided that the portion of the proceeds of life-insurance policies attributable to premiums paid by the decedent on or before January 10, 1941, shall be excluded if at no time after such date the decedent possessed an incident of ownership in the policies. For this purpose a reversionary interest was treated as an incident of ownership.

However, section 503 (a) of the Revenue Act of 1950 amended section 404 (c) of the Revenue Act of 1942 by providing that, for the purpose of determining whether the decedent possessed an incident of ownership after January 10, 1941, a reversionary interest was not an incident of ownership unless at some time after that date it exceeded in value 5 percent of the value of the policy and the reversionary interest arose by the express terms of the policy or other instrument and not by operation of law. The amendment made by section 503 (a) of the Revenue Act of 1950 was effective, however, only as to estates of decedents dying after October 21, 1942. This section applies the rules contained in section 404 (c) of the Revenue Act of 1942, as amended by section 503 (a) of the Revenue Act of 1950, to estates of decedents dying after January 10, 1941, and before October 22, 1942.

Subsection (b) provides that no interest shall be paid in respect of any overpayment resulting from the application of subsection (a) as to any payment made prior to the date of the enactment of this act.

SECTION 210. MARITAL DEDUCTION IN CERTAIN CASES WHERE DECEDENT DIED BEFORE APRIL 3, 1948

Subsection (a) of this section provides for the allowance of a marital deduction under section 812 (e) (1) (A) of the Internal Revenue Code in a case where an interest in property passes by will from a decedent, if the surviving spouse is entitled for life to all the income from such

property, payable annually or at more frequent intervals, with power in the surviving spouse to use and consume such portion of the property as the surviving spouse may need or desire for her (or his) comfortable support and maintenance, provided that there is no power in any person other than the surviving spouse to appoint any part of such property. This subsection would also apply in a case where the surviving spouse had greater powers than those described in subsection (a) if such greater powers include the specified powers. Under existing law, a marital deduction would not be allowable in a case of this type because of the operation of the terminable interest rule contained in section 812 (e) (1) (B) of the code. It is further provided that nothing in this subsection shall be construed to permit a double deduction for any property.

Under subsection (b), subsection (a) is to apply only if the surviving spouse so elects and in such case the property subject to the power is treated, for both gift and estate tax purposes, as property over which such spouse has a general power of appointment created on the date of the decedent's death and exercisable by deed or will. It is further provided that if the surviving spouse makes the election, the limitation provisions on the assessment and collection of any amount of gift or estate tax resulting from such election shall be extended to include 1 year from the date such election is filed.

Subsection (c) provides that this section shall apply only to estates of decedents dying after December 31, 1947, and on or before the date of the enactment of the Revenue Act of 1948.

SECTION 211. MITIGATION OF EFFECT OF STATUTE OF LIMITATIONS

Section 211 of the bill adds new paragraphs (6) and (7) to section 3801 (b) of the code, relating to circumstances of adjustment, and amends the second sentence of section 3801 (b). Paragraph (6) permits an adjustment, when a deduction or credit is disallowed, of tax liability within the additional period of time provided by section 3801 (c) in cases where (1) a related taxpayer was entitled to the deduction or credit or (2) the taxpayer was entitled to the deduction or credit for a different taxable year, if, at the time the deduction or credit was incorrectly claimed, credit or refund for the correct year or to the related taxpayer was not barred. Paragraph (7) provides similar rules where the Secretary included an income item in the incorrect taxable year or included an income item in the income of the wrong taxpayer of a related taxpayer group. The amendment to the second sentence of section 3801 (b) excepts cases described in paragraphs (6) and (7) from the requirement that the adjustment be made only in cases where the other party has maintained an inconsistent position, since cases described in paragraphs (6) and (7) are not attributable to the maintenance of an inconsistent position by the other party to the dispute. The new paragraphs (6) and (7) apply only where the determination became final on or after July 1, 1952.

Subsection (c) of section 211 provides that in any case in which the determination became final before the enactment of this bill, the 1-year period in section 3801 (c) for the making of the adjustment is extended to include the period of 1 year from the date of enactment of the bill.

○

Union Calendar No. 311

83D CONGRESS
1ST SESSION

H. R. 6426

[Report No. 894]

IN THE HOUSE OF REPRESENTATIVES

JULY 21, 1953

Mr. REED of New York introduced the following bill; which was referred to the Committee on Ways and Means

JULY 21, 1953

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

A BILL

To amend the Internal Revenue Code to extend the time during which certain provisions relating to income and estate taxes shall apply, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) SHORT TITLE.—This Act, divided into titles and sections according to the following table of contents, may be cited as the "Technical Changes Act of 1953":

TABLE OF CONTENTS

TABLE OF CONTENTS—Continued

(b) ACT AMENDATORY OF INTERNAL REVENUE CODE.—Except as otherwise expressly provided, wherever in this Act an amendment or repeal is expressed in terms of an amendment to or repeal of a chapter, subchapter, title, supplement, section, subsection, subdivision, paragraph, subparagraph, or clause, the reference shall be considered to be made to a provision of the Internal Revenue Code.

(c) MEANING OF TERMS USED.—Except as otherwise expressly provided, terms used in this Act shall have the same meaning as when used in the Internal Revenue Code.

TITLE I—EXTENSION PROVISIONS

SEC. 101. ELECTION AS TO RECOGNITION OF GAIN IN CERTAIN CORPORATE LIQUIDATIONS.

(a) AMENDMENT OF SECTION 112 (b) (7).—Section 112 (b) (7) (relating to recognition of gain in certain corporate liquidations) is hereby amended by striking out "1951 or 1952" in subparagraph (A) (ii) and inserting in lieu thereof "1951, 1952, or 1953".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to taxable years ending after December 31, 1952.

SEC. 102. EXTENSION OF TIME TO MAKE ELECTION IN RESPECT OF EXCESSIVE DEPRECIATION ALLOWED FOR PERIODS BEFORE 1952.

(a) AMENDMENT OF SECTION 113 (d).—So much of section 113 (d) (relating to election in respect of depreciation, etc., allowed before 1952) as follows the first sentence thereof is hereby amended to read as follows: "Such an election shall be made in such manner as the Secretary may by regulations prescribe and shall be irrevocable when made, except that an election made on or before December 31,

1952, may be revoked at any time before January 1, 1955. A revocation of an election shall be made in such manner as the Secretary may by regulations prescribe, and no election may be made by any person after he has so revoked an election. The election shall apply in respect of all property held by the person making the election at any time on or before December 31, 1952, and in respect of all periods since February 28, 1913, and before January 1, 1952, during which such person held such property or for which adjustments must be made under subsection (b) (2). An election or a revocation of an election by a transferor, donor, or grantor made after the date of the transfer, gift, or grant of property shall not affect the basis of such property in the hands of the transferee, donee, or grantee. No election may be made under this subsection after December 31, 1954."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective as if included in the amendment made by section 2 of Public Law 539, Eighty-second Congress, at the time of its enactment.

SEC. 103. EXTENSION OF TIME FOR MAKING ELECTION WITH RESPECT TO WAR-LOSS RECOVERIES.

Section 127 (c) (5) (relating to election with respect to war-loss recoveries) is hereby amended by striking out

"December 31, 1952" and inserting in lieu thereof "December 31, 1953".

SEC. 104. EXTENSION OF PERIOD OF ABATEMENT OF INCOME TAXES OF MEMBERS OF ARMED FORCES UPON DEATH.

Section 154 (relating to income taxes of members of Armed Forces on death) is hereby amended by striking out "January 1, 1954" and inserting in lieu thereof "January 1, 1955".

SEC. 105. EXTENSION OF TEMPORARY PROVISIONS RELATING TO LIFE INSURANCE COMPANIES.

(a) TAX FOR 1953.—Sections 201 (a) (1) (relating to imposition of tax on life insurance companies), 203A (relating to 1951 and 1952 adjusted normal-tax net income of life insurance companies), and 433 (a) (1) (H) (relating to excess profits net income of life insurance companies) are each hereby amended by striking out "1951 and 1952" wherever appearing therein and inserting in lieu thereof "1953".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply only to taxable years beginning in 1953. The application of the amendment to section 201 (f) (relating to disallowance of double deductions) made by

section 336 (c) (2) of the Revenue Act of 1951 is hereby extended to taxable years beginning after December 31, 1952.

SEC. 106. EXTENSION OF PERIOD FOR EXEMPTION FROM ADDITIONAL ESTATE TAX OF MEMBERS OF ARMED FORCES UPON DEATH.

Section 939 (b) (relating to the tax treatment of estates of certain members of the Armed Forces) is hereby amended by striking out "JANUARY 1, 1954" and inserting in lieu thereof "JANUARY 1, 1955", and by striking out "January 1, 1954" and inserting in lieu thereof "January 1, 1955".

TITLE II—MISCELLANEOUS

SEC. 201. VENUE OF ACTIONS FOR VIOLATIONS OF ACT OF OCTOBER 19, 1949.

(a) AMENDMENT OF ACT.—Section 2 of the Act entitled "An Act to assist States in collecting sales and use taxes on cigarettes", approved October 19, 1949 (15 U. S. C., sec. 376), is hereby amended by striking out "forward to" and inserting in lieu thereof "file with".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply only in respect of memoranda or copies of invoices covering shipments made during the calendar month in which this Act is enacted and subsequent calendar months.

SEC. 202. DEDUCTION OF CERTAIN UNPAID EXPENSES AND INTEREST.

(a) AMENDMENT OF SECTION 24 (c).—Paragraph (1) of section 24 (c) (relating to disallowance of certain deductions for expenses incurred and interest accrued) is hereby amended to read as follows:

"(1) If within the period consisting of the taxable year of the taxpayer and two and one-half months after the close thereof (A) such expenses or interest are not paid, and (B) the amount thereof is not includible in the gross income of the person to whom the payment is to be made; and".

(b) EFFECTIVE DATE.—

(1) Except as otherwise provided in paragraph (2), the amendment made by subsection (a) shall apply only with respect to taxable years beginning after December 31, 1950.

(2) At the election of a taxpayer (hereinafter in this paragraph referred to as the "payor") made within one year after the date of the enactment of this Act, the amendment made by subsection (a) shall also apply with respect to such taxable years of the payor beginning after December 31, 1945, and before January 1, 1951, as are specified by the payor in making such election. Such election for any

taxable year shall not be valid as to any amount unless, at or before the time when such election is filed—

(A) the person (hereinafter in this paragraph referred to as the "payee") to whom such amount was payable included such amount in gross income for his taxable year for which such amount was includible in gross income, or

(B) the payee files a written consent to the assessment and collection of any deficiency and interest resulting from the payee's failure to include such amount in gross income for such taxable year, or

(C) the payor pays an amount equal to the deficiency and interest which would be payable by the payee pursuant to subparagraph (B) if he filed such consent. (Any amount paid under this subparagraph shall be assessed, notwithstanding any law or rule of law to the contrary, as an addition to the tax of the payor for the year for which the election is filed.)

The periods of limitation provided in sections 275 and 276 of the Internal Revenue Code on the making of an assessment and the beginning of distraint or a proceeding in court for collection shall, with respect to any deficiency and interest thereon resulting from any consent filed pursuant to subparagraph (B), include one year immediately following the

date such consent is filed, and such assessment and collection may be made notwithstanding any provision of law or any rule of law which otherwise would prevent such assessment and collection. If an election by a payor should be filed for a taxable year of the payor for which allowance of credit or refund of an overpayment is barred (at the time of such filing) by any law or rule of law, any consent filed by the payee in respect of any amount which represents expenses incurred or interest accrued by the payor for such year shall be void. If a consent requires the inclusion in the gross income of the payee for any taxable year of an amount which was erroneously included in the gross income of the payee for another taxable year and, on the date the consent is filed, correction of the effect of the error is prevented by the operation of any provision of the internal-revenue laws other than section 3761 of the Internal Revenue Code (relating to compromises), then the effect of the error shall be corrected in accordance with section 3801 of the Internal Revenue Code as if the consent were a determination under such section 3801 in which there is adopted a position maintained by the Secretary of the Treasury. The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out the provisions of this paragraph.

SEC. 203. BASIS OF CERTAIN PROPERTY TRANSFERRED IN TRUST.

(a) AMENDMENT OF SECTION 113 (a) (5).—The second sentence of section 113 (a) (5) (relating to the basis of property transmitted at death) is hereby amended by inserting immediately after the words "revoke the trust" the following: "or to make any change in the enjoyment thereof through the exercise of a power to alter, amend, or terminate the trust".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply (1) only in the case of property transferred by grantors dying after December 31, 1951, and (2) only with respect to taxable years ending after December 31, 1951.

SEC. 204. EARNED INCOME FROM SOURCES WITHOUT THE UNITED STATES.

(a) AMENDMENT OF SECTION 116 (a) (2).—Section 116 (a) (2) (relating to exclusion from gross income of earned income from sources without the United States) is hereby amended—

(1) by inserting "on or before April 14, 1953," after "amounts received";

(2) by striking out "such period" the second place it appears and inserting in lieu thereof "such period of 18 consecutive months"; and

(3) by adding at the end thereof the following new sentence: "For the purpose of applying section 107 to any amount of earned income described in this paragraph which is received after April 14, 1953, this paragraph shall not apply in computing the tax attributable to any portion of such amount deemed for the purpose of section 107 to have been received on or before April 14, 1953."

(b) WITHHOLDING OF TAX ON WAGES OF CITIZENS OUTSIDE THE UNITED STATES.—So much of section 1621 (a) (8) (relating to the definition of wages) as precedes subparagraph (B) thereof is hereby amended to read as follows:

"(8) (A) for services for an employer (other than the United States or any agency thereof) (i) performed by a citizen of the United States if, at the time of the payment of such remuneration, it is reasonable to believe that such remuneration will be excluded from gross income under section 116 (a), or (ii) performed in a foreign country by such a citizen if, at the time of the payment of such remuneration, the employer is required by the law of any foreign country to withhold income tax upon such remuneration, or".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to taxable years ending

after April 14, 1953. The amendments made by subsections (a) and (b) shall not affect the liability of any employer to deduct and withhold the tax imposed by section 1622 in the case of any remuneration paid before the first day of the first month beginning more than ten days after the date of the enactment of this Act.

SEC. 205. NET OPERATING LOSS CARRY-OVERS.

(a) AMENDMENT OF SECTION 122 (b) (2).—

(1) Section 122 (b) (2) (relating to net operating loss carry-over) is hereby amended by adding after subparagraph (D) the following new subparagraphs:

"(E) Loss For Taxable Years of Corporations Beginning In 1947 And Ending In 1948.—If a corporation (other than a corporation which commenced business after December 31, 1945) has a net operating loss for a taxable year beginning in 1947 and ending in 1948, subparagraph (C) shall apply as if the taxable year began after December 31, 1947; except that the net operating loss carry-over for the third succeeding taxable year shall not exceed that amount which bears the same ratio to the net operating loss as the number of days in the taxable year after December 31, 1947, bears to the total number of days in the taxable year.

"(F) Loss in Case of Corporations Whose

First Taxable Year Began in 1949 and Ended in 1950.—If the first taxable year of a corporation began in 1949 and ended in 1950, and if the corporation had a net operating loss for such first taxable year, there shall be a net operating loss carry-over for the fourth and fifth succeeding taxable years. The amount of such carry-over shall be determined in accordance with the first sentence of subparagraph (B); except that—

"(i) such carry-over for the fourth succeeding taxable year shall not exceed so much of such net operating loss as is allocable to 1950, and

"(ii) such carry-over for the fifth succeeding taxable year shall not exceed the amount by which the carry-over for the fourth succeeding taxable year (as limited by clause (i) of this sentence) exceeds the net income for the fourth succeeding taxable year computed as provided in clauses (i) and (ii) of the first sentence of subparagraph (B).

For the purposes of the preceding sentence, the portion of the net operating loss which is allocable to 1950 shall be an amount which bears the same ratio to such loss as the number of days in the taxable

year after December 31, 1949, bears to the total number of days in the taxable year."

(2) Subparagraph (A) of section 122 (b) (2) is hereby amended by striking out "subparagraph (D)," and inserting in lieu thereof "subparagraphs (D) and (E),".

(3) The amendment made by paragraph (2), and subparagraph (E) of section 122 (b) (2) of the Internal Revenue Code as added by paragraph (1), shall apply with respect to taxable years ending after December 31, 1947. Subparagraph (F) of section 122 (b) (2) of the Internal Revenue Code as added by paragraph (1) shall apply with respect to taxable years ending after December 31, 1949.

(b) SUCCESSOR RAILROAD CORPORATIONS.—

(1) Subsection (c) of the first section of the Act of July 15, 1947 (61 Stat. 324), relating to allowance to successor railroad corporations of benefits of certain carry-overs of predecessor corporations, is hereby amended to read as follows:

"(c) For the purposes of this section, if the period, beginning on the first day of the taxable year of the predecessor corporation in which the acquisition occurred and ending on the last day of the taxable year of the successor

corporation in which the acquisition occurred, is not more than twelve months, then—

"(1) if such net operating loss or unused excess profits credit was for a taxable year beginning before January 1, 1948, the number of succeeding taxable years to which such net operating loss or unused excess profits credit is a carry-over shall be three (instead of two, as respectively provided in section 122 (b) (2) (A) and section 710 (c) (3) (B) of such code); and

"(2) if such net operating loss was for a taxable year beginning after December 31, 1947, and before January 1, 1950, the number of succeeding taxable years to which such net operating loss is a carry-over shall be four (instead of three, as provided in section 122 (b) (2) (C) of such code);

and such regulations shall prescribe (as nearly as possible in the manner respectively prescribed in sections 122 (b) (2) and 710 (c) (3) (B) of such code with respect to a net operating loss or an unused excess profits credit, as the case may be, for such taxable year) the amount to be carried over to the last of such succeeding taxable years."

(2) The amendment made by paragraph (1) shall be effective as if included in such Act of July 15, 1947, at the time of its enactment.

SEC. 206. AMORTIZATION DEDUCTION FOR GRAIN STORAGE FACILITIES.

(a) ALLOWANCE OF DEDUCTION.—Supplement B of subchapter C of chapter 1 is hereby amended by inserting after section 124A the following new section:

"SEC. 124B. AMORTIZATION DEDUCTION FOR GRAIN STORAGE FACILITIES.

"(a) ALLOWANCE OF DEDUCTION.—

"(1) ORIGINAL OWNER.—Any person who constructs, reconstructs, or erects a grain storage facility (as defined in subsection (d)) shall, at his election, be entitled to a deduction with respect to the amortization of the adjusted basis (for determining gain) of such facility based on a period of sixty months. The sixty-month period shall begin as to any such facility, at the election of the taxpayer, with the month following the month in which the facility was completed, or with the succeeding taxable year.

"(2) SUBSEQUENT OWNERS.—Any person who acquires a grain storage facility from a taxpayer who—

"(A) elected under subsection (b) to take the amortization deduction provided by this subsection with respect to such facility, and

"(B) did not discontinue the amortization deduction pursuant to subsection (c).

shall, at his election, be entitled to a deduction with respect to the adjusted basis (determined under subsection (e) (2)) of such facility based on the period, if any, remaining (at the time of acquisition) in the sixty-month period elected under subsection (b) by the person who constructed, reconstructed, or erected such facility.

"(3) AMOUNT OF DEDUCTION.—The amortization deduction provided in paragraphs (1) and (2) shall be an amount, with respect to each month of the amortization period within the taxable year, equal to the adjusted basis of the facility at the end of such month, divided by the number of months (including the month for which the deduction is computed) remaining in the period. Such adjusted basis at the end of the month shall be computed without regard to the amortization deduction for such month. The amortization deduction above provided with respect to any month shall be in lieu of the deduction with respect to such facility for such month provided by section 23 (l) (relating to exhaustion, wear and tear, and obsolescence).

"(b) ELECTION OF AMORTIZATION.—The election of the taxpayer under subsection (a) (1) to take the amortization deduction and to begin the sixty-month period with the month following the month in which the facility was

completed shall be made only by a statement to that effect in the return for the taxable year in which the facility was completed. The election of the taxpayer under subsection (a) (1) to take the amortization deduction and to begin such period with the taxable year succeeding **such year** shall be made only by a statement to that effect in the return for such succeeding taxable year. The election of the taxpayer under subsection (a) (2) to take the amortization deduction shall be made only by a statement to that effect in the return for the taxable year in which the facility was acquired. Notwithstanding the preceding three sentences, the election of the taxpayer under subsection (a) (1) or (2) may be made, under such regulations as the Secretary may prescribe, before the time prescribed in the applicable sentence.

"(c) TERMINATION OF AMORTIZATION DEDUCTION.—A taxpayer which has elected under subsection (b) to take the amortization deduction provided in subsection (a) may, at any time after making such election, discontinue the amortization deduction with respect to the remainder of the amortization period, such discontinuance to begin as of the beginning of any month specified by the taxpayer in a notice in writing filed with the Secretary before the beginning of such month. The deduction provided under section 23 (l) shall be allowed, beginning with the first month as to which

the amortization deduction is not applicable, and the taxpayer shall not be entitled to any further amortization deduction with respect to such facility.

"(d) DEFINITION OF GRAIN STORAGE FACILITY.—For the purposes of this section, the term 'grain storage facility' means—

"(1) any corn crib, grain bin, or grain elevator, or any similar structure suitable primarily for the storage of grain, which crib, bin, elevator, or structure is intended by the taxpayer at the time of his election to be used for the storage of grain produced by him (or, if the election is made by a partnership, produced by the members thereof) ; and

"(2) any public grain warehouse permanently equipped for receiving, elevating, conditioning, and loading out grain,

the construction, reconstruction, or erection of which was completed after December 31, 1952, and on or before December 31, 1956. If any structure described in clause (1) or (2) of the preceding sentence is altered or remodeled so as to increase its capacity for the storage of grain, or if any structure is converted, through alteration or remodelling, into a structure so described, and if such alteration or remodelling was completed after December 31, 1952, and on or before December 31, 1956, such alteration or remodelling

shall be treated as the construction of a grain storage facility. The term 'grain storage facility' shall include only property of a character which is subject to the allowance for depreciation provided in section 23 (l). The term 'grain storage facility' shall not include any facility any part of which is an emergency facility within the meaning of section 124A.

"(e) DETERMINATION OF ADJUSTED BASIS.—

"(1) ORIGINAL OWNERS.—For the purpose of subsection (a) (1)—

"(A) in determining the adjusted basis of any grain storage facility, the construction, reconstruction, or erection of which was begun before January 1, 1953, there shall be included only so much of the amount of the adjusted basis (computed without regard to this subsection) as is properly attributable to such construction, reconstruction, or erection after December 31, 1952, and

"(B) in determining the adjusted basis of any facility which is a grain storage facility within the meaning of the second sentence of subsection (d), there shall be included only so much of the amount otherwise included in such basis as is properly attributable to the alteration or remodeling.

If any existing grain storage facility as defined in the first sentence of subsection (d) is altered or re-

modeled as provided in the second sentence of subsection (d), the expenditures for such remodeling or alteration shall not be applied in adjustment of the basis of such existing facility but a separate basis shall be computed in respect of such facility as if the part altered or remodeled were a new and separate grain storage facility.

"(2) SUBSEQUENT OWNERS.—For the purpose of subsection (a) (2), the adjusted basis of any grain storage facility shall be whichever of the following amounts is the smaller: (A) The basis (unadjusted) of such facility for the purposes of this section in the hands of the transferor, donor, or grantor, adjusted as if such facility in the hands of the taxpayer had a substitute basis within the meaning of section 113 (b) (2) (A), or (B) so much of the adjusted basis (for determining gain) of the facility in the hands of the taxpayer (as computed without regard to this subsection) as is properly attributable to construction, reconstruction, or erection after December 31, 1952.

"(f) DEPRECIATION DEDUCTION.—If the adjusted basis of the grain storage facility (computed without regard to subsection (e)) exceeds the adjusted basis computed under subsection (e), the deduction provided by section 23 (l) shall, despite the provisions of subsection (a) (3) of this

section, be allowed with respect to such grain storage facility as if the adjusted basis for the purpose of such deduction were an amount equal to the amount of such excess.

"(g) LIFE TENANT AND REMAINDERMAN.—In the case of property held by one person for life with remainder to another person, the amortization deduction provided in subsection (a) shall be computed as if the life tenant were the absolute owner of the property and shall be allowed to the life tenant."

(b) TECHNICAL AMENDMENTS.—

(1) Section 23 (t) is hereby amended to read as follows:

"(t) AMORTIZATION DEDUCTION.—The deduction for amortization provided in sections 124, 124A, and 124B."

(2) Section 172 is hereby amended by striking out "of emergency facilities".

(3) Section 190 is hereby amended by inserting after "emergency facilities" the following: "or grain storage facilities".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply only with respect to taxable years ending after the date of the enactment of this Act.

SEC. 207. EXCLUSION OF CERTAIN TRANSFERS TAKING EFFECT AT DEATH.

(a) DECEDENTS DYING AFTER FEBRUARY 10, 1939.—Paragraph (1) of section 811 (c) (relating to the inclusion of certain interests in the decedent's gross estate) is hereby amended by inserting after subparagraph (C) the following:

"Subparagraph (B) shall not apply to a transfer made before March 4, 1931; nor shall subparagraph (B) apply to a transfer made after March 3, 1931, and before June 7, 1932, unless the property transferred would have been includible in the decedent's gross estate by reason of the amendatory language of the joint resolution of March 3, 1931 (46 Stat. 1516)."

(b) DECEDENTS DYING BEFORE FEBRUARY 11, 1939.—For the purposes of section 302 (c) of the Revenue Act of 1926, as amended, an interest of a decedent shall not be included in his gross estate as intended to take effect in possession or enjoyment at or after his death unless it would have been includible as such a transfer under section 811 (c) (2) of the Internal Revenue Code, as amended by section 7 of Public Law 378, Eighty-first Congress, approved October 25, 1949 (63 Stat. 891), had such section 811 (c) (2), as so amended, applied to the estate of such dece-

dent. No refund or credit of any overpayment resulting from the application of this subsection shall be allowed or made if prevented by the operation of the statute of limitations or by any other law or rule of law; except that if the determination of the Federal estate tax liability in respect of the estate of any decedent dying before February 11, 1939, was pending on January 17, 1949, in the Tax Court of the United States or in any other court of competent jurisdiction, or if a decision of the Tax Court of the United States or such other court determining such estate tax liability did not become final until on or after January 17, 1949, then refund or credit of any overpayment resulting from the application of this subsection may, nevertheless, be made or allowed if claim therefor is filed within one year from the date of the enactment of this Act, notwithstanding section 319 (a) of the Revenue Act of 1926 or any other law or rule of law which would otherwise prevent the allowance of such refund or credit.

(c) INTEREST.—No interest shall be allowed or paid on any overpayment resulting from the application of this section with respect to any payment made before the date of the enactment of this Act.

(d) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply only with respect to estates of

decedents dying after February 10, 1939. Subsection (b) shall apply only with respect to estates of decedents dying before February 11, 1939.

SEC. 208. FAILURE TO RELINQUISH A POWER IN CERTAIN DISABILITY CASES.

(a) AMENDMENT OF SECTION 811 (d).—Section 811 (d) (relating to revocable transfers) is hereby amended by inserting after paragraph (3) thereof the following new paragraph:

"(4) EFFECT OF DISABILITY IN CERTAIN CASES.—For the purposes of this subsection, in the case of a decedent who was (for a continuous period beginning not less than three months before December 31, 1947, and ending with his death) under a mental disability to relinquish a power, the term 'power' shall not include a power the relinquishment of which on or after January 1, 1940, and on or before December 31, 1947, would, by reason of section 1000 (e), be deemed not to be a transfer of property for the purposes of chapter 4."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply only with respect to estates of decedents dying after December 31, 1950.

SEC. 209. REVERSIONARY INTERESTS IN CASE OF LIFE INSURANCE.

(a) DECEDENTS DYING AFTER JANUARY 10, 1941, AND BEFORE OCTOBER 22, 1942.—Effective with respect to estates of decedents dying after January 10, 1941, and before October 22, 1942, the proceeds of life insurance receivable by beneficiaries other than the executor shall not be included in the gross estate of a decedent under section 811 (g) of the Internal Revenue Code unless such proceeds would have been includible under section 404 (c) of the Revenue Act of 1942 (as amended by section 503 (a) of the Revenue Act of 1950) had such section 404 (c), as so amended, applied to such estate.

(b) INTEREST.—No interest shall be allowed or paid on any overpayment resulting from the application of subsection (a) with respect to any payment made before the date of the enactment of this Act.

SEC. 210. MARITAL DEDUCTION IN CERTAIN CASES WHERE DECEDENT DIED BEFORE APRIL 3, 1948.

(a) IN GENERAL.—In the case of an interest in property passing by will from the decedent, if the surviving spouse is entitled for life to all the income from such property, payable annually or at more frequent intervals, with power in the surviving spouse to use and consume such portion of the property as the surviving spouse may need or desire for her

(or his) comfortable support and maintenance, and with no power in any person other than the surviving spouse to appoint any part of such property, then—

(1) the interest so passing shall, for the purposes of subparagraph (A) of section 812 (e) (1) of the Internal Revenue Code, be considered as passing to the surviving spouse; and

(2) no part of the interest so passing shall, for the purposes of subparagraph (B) (i) of section 812 (e) (1) of the Internal Revenue Code, be considered as passing to any person other than the surviving spouse. Nothing in this subsection shall be construed to permit the same items to be twice deducted.

(b) ELECTION.—The provisions of subsection (a) shall apply only if the surviving spouse files an election under this section with the Secretary within one year after the date of the enactment of this Act under such regulations as the Secretary shall prescribe. If such election is so filed, the property subject to such power shall, notwithstanding any other provision of law, be considered for purposes of chapters 3 and 4 of the Internal Revenue Code as property as to which the surviving spouse had a general power of appointment exercisable by deed or will. If the surviving spouse has made an election pursuant to this section, the periods of limitation provided in chapters 3 and 4 of the

Internal Revenue Code on the making of an assessment and the beginning of distraint or a proceeding in court for collection shall, with respect to any deficiency and interest thereon resulting from such election, include one year immediately following the date such election is filed, and such assessment and collection may be made notwithstanding any provision of law or any rule of law which otherwise would prevent such assessment and collection.

(c) INTEREST.—No interest shall be allowed or paid on any overpayment resulting from the application of this section.

(d) EFFECTIVE DATE.—This section shall apply only with respect to estates of decedents dying after December 31, 1947, and on or before the date of the enactment of the Revenue Act of 1948. If refund or credit of any overpayment resulting from the application of subsections (a) and (b) is prevented on the date of the enactment of this Act, or within one year from such date, by the operation of any law or rule of law (other than section 3760 of the Internal Revenue Code, relating to closing agreements, and other than section 3761 of such code, relating to compromises), refund or credit of such overpayment may, nevertheless, be made or allowed if claim therefor is filed within one year from the date of the enactment of this Act.

SEC. 211. MITIGATION OF EFFECT OF STATUTE OF LIMITATIONS.

(a) AMENDMENT OF SECTION 3801 (b).—Section 3801 (b) (relating to circumstances of adjustment) is hereby amended by inserting after paragraph (5) the following new paragraphs:

"(6) Disallows a deduction or credit which should have been allowed to, but was not allowed to, the taxpayer for another taxable year, or to a related taxpayer; but this paragraph shall apply only if (A) the determination became final on or after July 1, 1952, and (B) credit or refund of the overpayment attributable to the deduction or credit which should have been allowed to the taxpayer or related taxpayer was not barred, by any law or rule of law, at or after the time the taxpayer first maintained before the Secretary or the Tax Court of the United States, in writing, that he was entitled to such deduction or credit in the taxable year for which it is so disallowed; or

"(7) Requires the exclusion from gross income of an item which is includible in the gross income of the taxpayer for another taxable year or in the gross income of a related taxpayer; but this paragraph shall apply only if (A) the determination became final on or after

July 1, 1952, and (B) assessment of deficiency under section 272 (a) by the Secretary for such other taxable year or against such related taxpayer was not barred, by any law or rule of law, at the time the Secretary first maintained in a notice of deficiency sent pursuant to section 272 (a) or before the Tax Court of the United States, that such item should be included in the gross income of the taxpayer for the taxable year to which the determination relates—".

(b) TECHNICAL AMENDMENTS.—

(1) Paragraph (5) of section 3801 (b) is hereby amended by striking out "transaction—" and inserting in lieu thereof "transaction; or".

(2) The second sentence of section 3801 (b) is hereby amended by striking out "Such" and inserting in lieu thereof "Except in cases described in paragraphs (6) and (7), such".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall be effective as if included in the Internal Revenue Code at the time of its enactment. In any case in which the determination referred to in paragraph (6) or (7) of section 3801 (b), as amended by subsection (a) of this section, became final before the

date of the enactment of this Act, the one-year period described in section 3801 (c) shall be extended to include the one-year period beginning with the date of the enactment of this Act.

Union Calendar No. 311

83D CONGRESS
1ST SESSION

H. R. 6426

[Report No. 894]

A BILL

To amend the Internal Revenue Code to extend the time during which certain provisions relating to income and estate taxes shall apply, and for other purposes.

By Mr. REED of New York

JULY 21, 1953

Referred to the Committee on Ways and Means

JULY 21, 1953

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(For Department Staff Only)

Issued July 23, 1953
For actions of July 22, 1953
83rd-1st, No. 137

CONTENTS

HIGHLIGHTS: House received conference report on Agricultural appropriation bill. House passed foreign-aid appropriation bill. House committee reported orchard-loans bill. House passed grain-storage facilities tax-amortization bill. Senate debated defense appropriation bill. Senate committee tentatively agreed to report famine-relief bill. Senate committee ordered reported customs simplification bill with imported cotton standards amendment.

HOUSE

1. AGRICULTURAL APPROPRIATION BILL, 1954. House received the conference report on this bill, H. R. 5227 (pp. 9708-10). Attached to this Digest are statements pertaining to this measure.

2. APPROPRIATIONS. Passed, 288-111, with amendment, H. R. 6391, the mutual security appropriation bill for 1954 (pp. 9712-47).

Agreed to an amendment by Rep. Vorys increasing by $5 million the funds for technical assistance to Latin American countries (pp. 9737-8).

Rejected the following amendments:

By Rep. Judd to increase by $12 million the funds for technical assistance to the Near East and Africa (pp. 9733-5).

By Rep. Judd to increase by $19 million funds for technical assistance and defense support for Asia and the Pacific (pp. 9735-7).

By Rep. Javits to increase by $7.5 million the funds for multilateral technical assistance (pp. 9739-40).

By Rep. Coudert to put a $5.5 billion limitation on the 1954 expenditures of the Mutal Security Administration (pp. 9741-5).

By Rep. Budge to hold the 1954 obligations to the 1953 expenditures (p. 9745).

As passed this bill provides appropriations of $4,433,678,000 ($705,224,277 below the revised estimates) plus a $1,758,000,000 of unobligated carryover for 1954, a total available as of July 1, of $6,191,000,000.

House conferees were appointed on H. R. 4828, the Interior Department appropriation bill for 1954 (p. 9710). Senate conferees were appointed June 26.

3. ORCHARD LOANS. The Agriculture Committee reported without amendment H. R. 4158, to extend for 5 years the Secretary's authority to make loans to orchardists (H. Rept. 898) (p. 9752).

4. WATER COMPACT. The Interior and Insular Affairs Committee reported without amendment S. 1197, granting consent of Congress to a water compact between Nebr., Wyo., and S. Dak. (H. Rept. 896) (p. 9752).

5. RUBBER. House conferees were appointed on H. R. 5728, to authorize disposal of Government-owned rubber plants (p. 9747).

6. TAXATION; GRAIN STORAGE FACILITIES. Passed without amendment H. R. 6426, to amend the Internal Revenue Code to extend the time during which certain provisions relating to income and estate taxes shall apply (pp. 9704-8). Rep. Martin, Iowa, spoke favoring section 206, which would allow an income-tax deduction for the amortization of farm storage facilities built in calendar year 1953, and in the 3 succeeding calendar years (p. 9708.)

7. FOOD STANDARDS. The Interstate and Foreign Commerce Committee ordered reported (but did not actually report) H. R. 6434, to amend the Food and Drug Act, relating to food standards (p. D755).

8. CLAIMS. Received this Department's report of tort claims paid for the fiscal year ending June 30, 1953; to the Judiciary Committee (p. 9752).

9. LEGISLATIVE PROGRAM. The "Daily Digest" states the House will act on the conference report on the agricultural appropriation bill Thursday, July 23 (p. D753).

SENATE

10. APPROPRIATIONS. Debated H. R. 5969, the Defense appropriation bill for 1954 (pp. 9760-828).

11. FAMINE RELIEF; FARM SURPLUS. The "Daily Digest" states: the Agriculture and Forestry Committee "tentatively agreed to report with amendments S. 2249, to make agricultural commodities available to friendly countries to assist in famine and other urgent relief (special subcommittee was appointed to draft language for amendments approved today)"; and "appointed a subcommittee to draft a bill for the disposal of surplus agricultural commodities" (p. D752).

12. FOREIGN TRADE. The Finance Committee ordered reported (but did not actually report) H. R. 5877, the customs simplification bill. The "Daily Digest" states that the bill as ordered reported includes an amendment to allow the Secretary of Treasury to adopt the standards for length of staple established by USDA on imported cotton (p. D752).

13. CLAIMS. Received from this Department a report on tort claims paid by USDA for the period July 1, 1952 to June 30, 1953 (p. 9755).

14. TREATIES. Sen. Knowland submitted an amendment in the form of a substitute to S. J. Res. 1, proposing a constitutional amendment to limit the treatymaking power, and Sen. Wiley inserted the President's statement and his own discussing this amendment (pp. 9757-8).

15. DROUGHT RELIEF. Sen. Daniel discussed the drought situation in the Southwest and the need to develop better programs to combat such situations on the basis of joint Federal-State effort (pp. 9829-30).

United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 83d CONGRESS, FIRST SESSION

Vol. 99 WASHINGTON, WEDNESDAY, JULY 22, 1953 No. 137

House of Representatives

The House met at 12 o'clock noon.

Dr. Lewis H. Evins, minister, First Presbyterian Church, Hollywood, Calif., offered the following prayer:

Father of all nations, if it be true that no sparrow falleth to the ground without Thy knowledge, could any nation rise without Thine aid?

Bless these who guide us and help to shape our tomorrows. May they so serve Thy holy purpose that with clear minds, fair judgments, and unselfish aim they may legislate with confidence knowing that the last maps will always be made in heaven.

May we always remember that to talk with God no breath is lost, to walk with God no strength is lost, to wait on God no time is lost. So Lord teach us to pray. Listening to Thee we shall speak more wisely.

Teach us ever to pray and secure Thine aid lest we become mere helpless thinkers trying to put together a universe that is too big for us.

Saluting Thee as our True Sovereign may this continue to be a land in which all men are royal but no man cares to wear a crown since Thou, O God, art our King.

Our Father's God, to Thee author of liberty, long may our bright light protect our King. Amen.

THE JOURNAL

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Carrell, one of its clerks, announced that the Senate had passed, with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H. R. 4353. An act to increase farmer participation in ownership and control of the Federal Farm Credit System; to create a Federal Farm Credit Board; to abolish certain offices; to impose a franchise tax upon certain farm credit institutions; and for other purposes.

The message also announced that the Senate insists upon its amendments to the foregoing bill, requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. SCHOEPPEL, Mr. THYE, Mr. MUNDT, Mr. HOEY, and Mr. HOLLAND to be the conferees on the part of the Senate.

The message also announced that the Senate had passed, with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H. R. 5728. An act to authorize the disposal of the Government-owned rubber-producing facilities, and for other purposes.

The message also announced that the Senate insists upon its amendments to the foregoing bill, requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. CAPEHART, Mr. BRICKER, Mr. IVES, Mr. BENNETT, Mr. MAYBANK, Mr. ROBERTSON, and Mr. DOUGLAS to be the conferees on the part of the Senate.

The message also announced that the Senate had ordered that the Senator from Alabama, Mr. SPARKMAN, be appointed a conferee on the bill H. R. 5141, an act to create the Small Business Administration and to preserve small business institutions and free, competitive enterprise, in place of the Senator from Arkansas, Mr. FULBRIGHT, excused.

EXTENDING AND AMENDING THE RENEGOTIATION ACT OF 1951

Mr. REED of New York. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H. R. 6287) to extend and amend the Renegotiation Act of 1951.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from New York [Mr. REED]?

Mr. COOPER. Mr. Speaker, reserving the right to object, this bill was favorably reported by the Ways and Means Committee by unanimous vote. Those of us on this side are strongly supporting the bill and we agree with the course the gentleman is taking at this time.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That subsection (a) of section 102 of the Renegotiation Act of 1951 is hereby amended by striking out "December 31, 1953" and inserting in lieu thereof "December 31, 1954."

SEC. 2. (a) Paragraph (6) of section 106 (a) (6) of such act is hereby amended by inserting immediately following the second period therein the following: "In designating those classes and types of contracts which shall be exempt and in exempting any individual contract under this paragraph, the Board shall consider as not having a direct or immediate connection with national defense any contract for the furnishing of materials or services to be used by the United States, a Department or agency thereof, in the manufacture and sale of synthetic rubbers to a private person or to private persons which are to be used for nondefense purposes. If the use by such private person or persons shall be partly for defense and partly for nondefense purposes, the Board shall consider as not having a direct or immediate connection with national defense that portion of the contract which is determined not to have been used for national defense purposes. The method used in making such determination shall be subject to approval by the Board."

(b) The amendment made by subsection (a) shall be effective as if it were a part of such Renegotiation Act of 1951 on the date of its enactment.

SEC. 3. (a) Paragraph (1) of section 106 (c) of such act is hereby amended by striking out "from subcontracts" and inserting in lieu thereof "from contracts or subcontracts."

(b) Paragraph (2) of such section 106 (c) is hereby amended to read as follows:

"(2) Definition: For the purpose of this subsection, the term 'durable productive equipment' means machinery, tools, or other equipment which does not become a part of an end product, or of an article incorporated therein, and which has an average useful life of more than 5 years."

(c) The amendments made by subsections (a) and (b) shall apply only with respect to fiscal years (as defined in section 103 (h) of the Renegotiation Act of 1951) ending on or after June 30, 1953.

SEC. 4. Section 106 (d) of such act is hereby amended by striking out the period at the end of paragraph (5) and inserting

in lieu thereof a semicolon, and by inserting after paragraph (5) the following new paragraph:

"(6) any contract or subcontract for the making or furnishing of a standard commercial article, if, in the opinion of the Board, competitive conditions affecting the sale of such article are such as well reasonably protect the Government against excessive prices."

(Messrs. REED of New York and COOPER asked and were given permission to extend their remarks at this point in the RECORD.)

Mr. REED of New York. Mr. Speaker, H. R. 6287 provides for a 1-year extension, with amendments, of the Renegotiation Act of 1951.

The continuing high level of defense activity makes it essential that the Government be able to renegotiate contracts entered into under the defense program. Renegotiation laws have historically been the proper way for the Government to protect itself from permitting improper surpluses to be derived from war contracts. The Renegotiation Act of 1951 is not applicable with respect to receipts and accruals after December 31, 1953. Our present defense program will not have been terminated by that date. It is, therefore, necessary that an extension of the existing Renegotiation Act be enacted.

In addition to a 1-year extension, H. R. 6287 provides three amendments to existing law. The first amendment is necessary to clear up an ambiguity in existing law which has resulted from the part the Reconstruction Finance Corporation has played in our synthetic rubber program. Contracts with the Reconstruction Finance Corporation are subject to renegotiation and include purchases of materials for the production of synthetic rubber. The synthetic rubber produced in Government-owned plants is sold to provide contractors for civilian purposes as well as defense purposes. The amendment would have the effect of exempting contracts for civilian uses of synthetic rubber.

The second amendment pertains to prime contracts for machine tools. This amendment has been necessitated by the Government's machine-tool stockpiling program. The Government's purchases of machine tools will be subject to renegotiation only to the extent that 5 years bears to the estimated useful life of the tool concerned. This amendment will serve to somewhat mitigate the adverse effect that the stockpiling program will have upon the machine-tools market in future years.

The third amendment concerns standard commercial articles. A provision similar to this amendment was contained in the World War II renegotiation statute, and provided a permissive exemption for standard commercial articles, such as concrete. It is considered unnecessary that renegotiation apply to the many competitive articles which are freely distributed in normal commercial channels. An example of this is ready-mixed concrete. To require renegotiation with respect to such articles is to create unnecessary expense, both on the Government and on private contractors.

The Committee on Ways and Means had the assistance of the executive departments in the preparation of this legislation.

The committee amendment which I have sent to the desk merely extends for 1 year the time in which the United States can be substituted for the World War II War Contracts Price Adjustment Board in suits before the Tax Court. If this extension is not granted, a number of suits now pending in that court will be subject to dismissal on a technicality rather than on the merits.

Mr. COOPER. Mr. Speaker, H. R. 6287 would extend for another year the application of the renegotiation laws. Our committee felt that since vast sums of money are still being spent for the procurement of needed defense materials and equipment, the excessive profits of contractors should still be subject to recapture through renegotiation.

In addition to a 1-year extension, 3 amendments were adopted by the committee. One of the amendments clears up an ambiguity relating to purchases under contracts with the Reconstruction Finance Corporation of materials for the production of synthetic rubber. It is made clear that only those purchases which have a connection with defense will be subject to renegotiation. Another amendment relating to the renegotiation of contracts for durable productive equipment would extend the treatment now given subcontractors to prime contractors, and the third amendment adds a permissive exemption in the case of standard commercial articles, as was contained in the World War II renegotiation law. In the case of standard commercial products in most instances competitive pricing is an adequate protection to the Government against excessive prices.

Mr. REED of New York. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. REED of New York: On page 3, after line 16, insert the following:

"SEC. 5. Section 201 (h) of the Renegotiation Act of 1951 is hereby amended by striking out '2 years' and inserting in lieu thereof '3 years'."

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, and was read the third time, and passed.

House Resolution 345 was laid on the table.

A motion to reconsider was laid on the table.

AMENDING THE INTERNAL REVENUE CODE

Mr. REED of New York. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H. R. 6426) to amend the Internal Revenue Code to extend the time during which certain provisions relating to income and estate taxes shall apply, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. COOPER. Mr. Speaker, reserving the right to object, the same statement applies to this bill as applied to the one just considered. The bill was favorably reported by unanimous vote of the Committee on Ways and Means, and those of us on this side are supporting the bill.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That (a) Short title: This act, divided into titles and sections according to the following table of contents, may be cited as the "Technical Changes Act of 1953":

TABLE OF CONTENTS

(b) Act amendatory of Internal Revenue Code: Except as otherwise expressly provided, wherever in this act an amendment or repeal is expressed in terms of an amendment to or repeal of a chapter, subchapter, title, supplement, section, subsection, subdivision, paragraph, subparagraph, or clause, the reference shall be considered to be made to a provision of the Internal Revenue Code.

(c) Meaning of terms used: Except as otherwise expressly provided, terms used in this act shall have the same meaning as when used in the Internal Revenue Code.

TITLE I—EXTENSION PROVISIONS

SEC. 101. Election as to recognition of gain in certain corporate liquidations.

(a) Amendment of section 112 (b) (7): Section 112 (b) (7) (relating to recognition of gain in certain corporate liquidations) is hereby amended by striking out "1951 or 1952" in subparagraph (A) (ii) and inserting in lieu thereof "1951, 1952, or 1953."

(b) Effective date: The amendment made by subsection (a) shall apply with respect to taxable years ending after December 31, 1952.

SEC. 102. Extension of time to make election in respect of excessive depreciation allowed for periods before 1952.

(a) Amendment of section 113 (d): So much of section 113 (d) (relating to election in respect of depreciation, etc., allowed before 1952) as follows the first sentence thereof is hereby amended to read as follows: "Such an election shall be made in such manner as the Secretary may by regulations prescribe and shall be irrevocable when made, except that an election made on or before December 31, 1952, may be revoked at any time before January 1, 1955. A revocation of an election shall be made in such manner as the Secretary may by regulations prescribe, and no election may be made by any person after he has so revoked an election. The election shall apply in respect of all property held by the person making the election at any time on or before December 31, 1952, and in respect of all periods since February 28, 1913, and before January 1, 1952, during which such person held such property or for which adjustments must be made under subsection (b) (2). An election or a revocation of an election by a transferor, donor, or grantor made after the date of the transfer, gift, or grant of property shall not affect the basis of such property in the hands of the transferee, donee, or grantee. No election may be made under this subsection after December 31, 1954."

(b) Effective date: The amendment made by subsection (a) shall be effective as if included in the amendment made by section 2 of Public Law 539, 82d Congress, at the time of its enactment.

SEC. 103. Extension of time for making election with respect to war-loss recoveries.

Section 127 (c) (5) (relating to election with respect to war-loss recoveries) is hereby amended by striking out "December 31, 1952" and inserting in lieu thereof "December 31, 1953."

SEC. 104. Extension of period of abatement of income taxes of members of Armed Forces upon death.

Section 154 (relating to income taxes of members of Armed Forces on death) is hereby amended by striking out "January 1, 1954" and inserting in lieu thereof "January 1, 1955."

SEC. 105. Extension of temporary provisions relating to life insurance companies.

(a) Tax for 1953: Sections 201 (a) (1) (relating to imposition of tax on life insurance companies), 203A (relating to 1951 and 1952 adjusted normal-tax net income of life insurance companies), and 433 (a) (1) (H) (relating to excess profits net income of life insurance companies) are each hereby amended by striking out "1951 and 1952" wherever appearing therein and inserting in lieu thereof "1953."

(b) Effective date: The amendments made by subsection (a) shall apply only to taxable years beginning in 1953. The application of the amendment to section 201 (f) (relating to disallowance of double deductions) made by section 336 (c) (2) of the Revenue Act of 1951 is hereby extended to taxable years beginning after December 31, 1952.

SEC. 106. Extension of period for exemption from additional estate tax of members of Armed Forces upon death.

Section 939 (b) (relating to the tax treatment of estates of certain members of the Armed Forces) is hereby amended by striking out "January 1, 1954" and inserting in lieu thereof "January 1, 1955," and by striking out "January 1, 1954" and inserting in lieu thereof "January 1, 1955."

TITLE II—MISCELLANEOUS

SEC. 201. Venue of actions for violations of act of October 19, 1949.

(a) Amendment of act: Section 2 of the act entitled "An act to assist States in collecting sales and use taxes on cigarettes," approved October 19, 1949 (15 U. S. C., sec. 376), is hereby amended by striking out "forward to" and inserting in lieu thereof "file with."

(b) Effective date: The amendment made by subsection (a) shall apply only in respect of memoranda or copies of invoices covering shipments made during the calendar month in which this act is enacted and subsequent calendar months.

SEC. 202. Deduction of certain unpaid expenses and interest.

(a) Amendment of section 24 (c): Paragraph (1) of section 24 (c) (relating to disallowance of certain deductions for expenses incurred and interest accrued) is hereby amended to read as follows:

"(1) If within the period consisting of the taxable year of the taxpayer and 2½ months after the close thereof (A) such expenses or interest are not paid, and (B) the amount thereof is not includible in the gross income of the person to whom the payment is to be made; and".

(b) Effective date:

(1) Except as otherwise provided in paragraph (2), the amendment made by subsection (a) shall apply only with respect to taxable years beginning after December 31, 1950.

(2) At the election of a taxpayer (hereinafter in this paragraph referred to as the "payor") made within 1 year after the date of the enactment of this act, the amendment made by subsection (a) shall also apply with respect to such taxable years of the payor beginning after December 31, 1945, and before January 1, 1951, as are specified by the payor in making such election. Such election for any taxable year shall not be valid as to any amount unless, at or before the time when such election is filed—

(A) the person (hereinafter in this paragraph referred to as the "payee") to whom such amount was payable included such amount in gross income for his taxable year for which such amount was includible in gross income, or

(B) the payee files a written consent to the assessment and collection of any deficiency and interest resulting from the payee's failure to include such amount in gross income for such taxable year, or

(C) the payor pays an amount equal to the deficiency and interest which would be payable by the payee pursuant to subparagraph (B) if he filed such consent. (Any amount paid under this subparagraph shall be assessed, notwithstanding any law or rule of law to the contrary, as an addition to the tax of the payor for the year for which the election is filed.)

The periods of limitation provided in sections 275 and 276 of the Internal Revenue Code on the making of an assessment and the beginning of distraint or a proceeding in court for collection shall, with respect to any deficiency and interest thereon resulting from any consent filed pursuant to subparagraph (B), include 1 year immediately following the date such consent is filed, and such assessment and collection may be made notwithstanding any provision of law or any rule of law which otherwise would prevent such assessment and collection. If an election by a payor should be filed for a taxable year of the payor for which allowance of credit or refund of an overpayment is barred (at the time of such filing) by any law or rule of law, any consent filed by the payee in respect of any amount which represents expenses incurred or interest accrued by the payor for such year shall be void. If a consent requires the inclusion in the gross income of the payee for any taxable year of an amount which was erroneously included in the gross income of the payee for another taxable year and, on the date the consent is filed, correction of the effect of the error is prevented by the operation of any provision of the internal-revenue laws other than section 3761 of the Internal Revenue Code (relating to compromises), then the effect of the error shall be corrected in accordance with section 3801 of the Internal Revenue Code as if the consent were a determination under such section 3801 in which there is adopted a position maintained by the Secretary of the Treasury. The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out the provisions of this paragraph.

SEC. 203. Basis of certain property transferred in trust.

(a) Amendment of section 113 (a) (5): The second sentence of section 113 (a) (5) (relating to the basis of property transmitted at death) is hereby amended by inserting immediately after the words "revoke the trust" the following: "or to make any change in the enjoyment thereof through the exercise of a power to alter, amend, or terminate the trust."

(b) Effective date: The amendment made by subsection (a) shall apply (1) only in the case of property transferred by grantors dying after December 31, 1951, and (2) only with respect to taxable years ending after December 31, 1951.

SEC. 204. Earned income from sources without the United States.

(a) Amendment of section 116 (a) (2): Section 116 (a) (2) (relating to exclusion from gross income of earned income from sources without the United States) is hereby amended—

(1) by inserting "on or before April 14, 1953," after "amounts received";

(2) by striking out "such period" the second place it appears and inserting in lieu thereof "such period of 18 consecutive months"; and

(3) by adding at the end thereof the following new sentence: "For the purpose of applying section 107 to any amount of earned income described in this paragraph which is received after April 14, 1953, this paragraph shall not apply in computing the tax attributable to any portion of such amount deemed for the purpose of section 107 to have been received on or before April 14, 1953."

(b) Withholding of tax on wages of citizens outside the United States: So much of section 1621 (a) (8) (relating to the definition of wages) as precedes subparagraph (B) thereof is hereby amended to read as follows:

"(8) (A) for services for an employer (other than the United States or any agency thereof) (i) performed by a citizen of the United States if, at the time of the payment of such remuneration, it is reasonable to believe that such remuneration will be excluded from gross income under section 116 (a), or (ii) performed in a foreign country by such a citizen if, at the time of the payment of such remuneration, the employer is required by the law of any foreign country to withhold income tax upon such remuneration, or."

(c) Effective date: The amendment made by subsection (a) shall apply with respect to taxable years ending after April 14, 1953. The amendments made by subsections (a) and (b) shall not affect the liability of any employer to deduct and withhold the tax imposed by section 1622 in the case of any remuneration paid before the first day of the first month beginning more than 10 days after the date of the enactment of this act.

SEC. 205. Net operating loss carryovers.

(a) Amendment or section 122 (b) (2): (1) Section 122 (b) (2) (relating to net operating loss carryover) is hereby amended by adding after subparagraph (D) the following new subparagraphs:

"(E) Loss for taxable years of corporations beginning in 1947 and ending in 1948: If a corporation (other than a corporation which commenced business after December 31, 1945) has a net operating loss for a taxable year beginning in 1947 and ending in 1948, subparagraph (C) shall apply as if the taxable year began after December 31, 1947; except that the net operating loss carryover for the third succeeding taxable year shall not exceed that amount which bears the same ratio to the net operating loss as the number of days in the taxable year after December 31, 1947, bears to the total number of days in the taxable year.

"(F) Loss in case of corporations whose first taxable year began in 1949 and ended in 1950: If the first taxable year of a corporation began in 1949 and ended in 1950, and if the corporation had a net operating loss for such first taxable year, there shall be a net operating loss carryover for the fourth and fifth succeeding taxable years. The amount of such carryover shall be determined in accordance with the first sentence of subparagraph (B); except that—

"(i) such carryover for the fourth succeeding taxable year shall not exceed so much of such net operating loss as is allocable to 1950, and

"(ii) such carryover for the fifth succeeding taxable year shall not exceed the amount by which the carryover for the fourth succeeding taxable year (as limited by clause (i) of this sentence) exceeds the net income for the fourth succeeding taxable year computed as provided in clauses (i) and (ii) of the first sentence of subparagraph (B). For the purposes of the preceding sentence, the portion of the net operating loss which is allocable to 1950 shall be an amount which bears the same ratio to such loss as the number of days in the taxable year after December 31, 1949, bears to the total number of days in the taxable year."

(2) Subparagraph (A) of section 122 (b) (2) is hereby amended by striking out "subparagraph (D)," and inserting in lieu thereof "subparagraphs (D) and (E),".

(3) The amendment made by paragraph (2), and subparagraph (E) of section 122 (b) (2) of the Internal Revenue Code as added by paragraph (1), shall apply with respect to taxable years ending after December 31, 1947. Subparagraph (F) of section 122 (b) (2) of the Internal Revenue Code as added by paragraph (1) shall apply with respect to taxable years ending after December 31, 1949.

(b) Successor railroad corporations:

(1) Subsection (c) of the first section of the act of July 15, 1947 (61 Stat. 324), relating to allowance to successor railroad corporations of benefits of certain carryovers of predecessor corporations, is hereby amended to read as follows:

"(c) For the purposes of this section, if the period, beginning on the first day of the taxable year of the predecessor corporation in which the acquisition occurred and ending on the last day of the taxable year of the successor corporation in which the acquisition occurred, is not more than 12 months, then—

"(1) if such net operating loss or unused excess-profits credit was for a taxable year beginning before January 1, 1948, the number of succeeding taxable years to which such net operating loss or unused excess-profits credit is a carryover shall be 3 (instead of 2, as respectively provided in section 122 (b) (2) (A) and sec. 710 (c) (3) (B) of such code); and

"(2) if such net operating loss was for a taxable year beginning after December 31, 1947, and before January 1, 1950, the number of succeeding taxable years to which such net operating loss is a carryover shall be 4 (instead of 3, as provided in section 122 (b) (2) (C) of such code);

and such regulations shall prescribe (as nearly as possible in the manner respectively prescribed in sections 122 (b) (2) and 710 (c) (3) (B) of such code with respect to a net operating loss or an unused excess-profits credit, as the case may be, for such taxable year) the amount to be carried over to the last of such succeeding taxable years."

(2) The amendment made by paragraph (1) shall be effective as if included in such act of July 15, 1947, at the time of its enactment.

SEC. 206. Amortization deduction for grain storage facilities.

(a) Allowance of deduction: Supplement B of subchapter C of chapter 1 is hereby amended by inserting after section 124A the following new section:

"SEC. 124B. Amortization deduction for grain storage facilities.

"(a) Allowance of deduction:

"(1) Original owner: Any person who constructs, reconstructs, or erects a grain storage facility (as defined in subsection (d)) shall, at his election, be entitled to a deduction with respect to the amortization of the adjusted basis (for determining gain) of such facility based on a period of 60 months. The 60-month period shall begin as to any such facility, at the election of the taxpayer, with the month following the month in which the facility was completed, or with the succeeding taxable year.

"(2) Subsequent owners: Any person who acquires a grain storage facility from a taxpayer who—

"(A) elected under subsection (b) to take the amortization deduction provided by this subsection with respect to such facility, and

"(B) did not discontinue the amortization deduction pursuant to subsection (c).

shall, at his election, be entitled to a deduction with respect to the adjusted basis (determined under subsection (e) (2)) of such facility based on the period, if any, remaining (at the time of acquisition) in the 60-month period elected under subsection (b) by the person who constructed, reconstructed, or erected such facility.

"(3) Amount of deduction: The amortization deduction provided in paragraphs (1) and (2) shall be an amount, with respect to each month of the amortization period within the taxable year, equal to the adjusted basis of the facility at the end of such month, divided by the number of months (including the month for which the deduction is computed) remaining in the period. Such adjusted basis at the end of the month shall be computed without regard to the amortization deduction for such month. The amortization deduction above provided with respect to any month shall be in lieu of the deduction with respect to such facility for such month provided by section 23 (l) (relating to exhaustion, wear and tear, and obsolescence).

"(b) Election of amortization: The election of the taxpayer under subsection (a) (1) to take the amortization deduction and to begin the 60-month period with the month following the month in which the facility was completed shall be made only by a statement to that effect in the return for the taxable year in which the facility was completed. The election of the taxpayer under subsection (a) (1) to take the amortization deduction and to begin such period with the taxable year succeeding such year shall be made only by a statement to that effect in the return for such succeeding taxable year. The election of the taxpayer under subsection (a) (2) to take the amortization deduction shall be made only by a statement to that effect in the return for the taxable year in which the facility was acquired. Notwithstanding the preceding three sentences, the election of the taxpayer under subsection (a) (1) or (2) may be made, under such regulations as the Secretary may prescribe, before the time prescribed in the applicable sentence.

"(c) Termination of amortization deduction: A taxpayer which has elected under subsection (b) to take the amortization deduction provided in subsection (a) may, at any time after making such election, discontinue the amortization deduction with respect to the remainder of the amortization period, such discontinuance to begin as of the beginning of any month specified by the taxpayer in a notice in writing filed with the Secretary before the beginning of such month. The deduction provided under section 23 (l) shall be allowed, beginning with the first month as to which the amortization deduction is not applicable, and the taxpayer shall not be entitled to any further amortization deduction with respect to such facility.

"(d) Definition of grain storage facility: For the purposes of this section, the term 'grain storage facility' means—

"(1) any corn crib, grain bin, or grain elevator, or any similar structure suitable primarily for the storage of grain, which crib, bin, elevator, or structure is intended by the taxpayer at the time of his election to be used for the storage of grain produced by him (or, if the election is made by a partnership, produced by the members thereof); and

"(2) any public grain warehouse permanently equipped for receiving, elevating, conditioning, and loading out grain,

the construction, reconstruction, or erection of which was completed after December 31, 1952, and on or before December 31, 1956. If any structure described in clause (1) or (2) of the preceding sentence is altered or remodeled so as to increase its capacity for the storage of grain, or if any structure is converted, through alteration or remodeling, into a structure so described, and if such alteration or remodeling was completed after December 31, 1952, and on or before December 31, 1956, such alteration or remodeling shall be treated as the construction of a grain storage facility. The term 'grain storage facility' shall include only property of a character which is subject to the allowance for depreciation provided in section 23 (l). The term 'grain storage facility' shall not include any facility any part of which is an emergency facility within the meaning of section 124A.

"(e) Determination of adjusted basis:

"(1) Original owners: For the purpose of subsection (a) (1)—

"(A) in determining the adjusted basis of any grain storage facility, the construction, reconstruction, or erection of which was begun before January 1, 1953, there shall be included only so much of the amount of the adjusted basis (computed without regard to this subsection) as is properly attributable to such construction, reconstruction, or erection after December 31, 1952, and

"(B) in determining the adjusted basis of any facility which is a grain storage facility within the meaning of the second sentence of subsection (d), there shall be included only so much of the amount otherwise included in such basis as is properly attributable to the alteration or remodeling.

If any existing grain storage facility as defined in the first sentence of subsection (d) is altered or remodeled as provided in the second sentence of subsection (d), the expenditures for such remodeling or alteration shall not be applied in adjustment of the

basis of such existing facility but a separate basis shall be computed in respect of such facility as if the part altered or remodeled were a new and separate grain storage facility.

"(2) Subsequent owners: For the purpose of subsection (a) (2), the adjusted basis of any grain storage facility shall be whichever of the following amounts is the smaller: (A) the basis (unadjusted) of such facility for the purposes of this section in the hands of the transferor, donor, or grantor, adjusted as if such facility in the hands of the taxpayer had a substitute basis within the meaning of section 113 (b) (2) (A) or (B) so much of the adjusted basis (for determining gain) of the facility in the hands of the taxpayer (as computed without regard to this subsection) as is properly attributable to construction, reconstruction, or erection after December 31, 1952.

"(f) Depreciation deduction: If the adjusted basis of the grain storage facility (computed without regard to subsection (e)) exceeds the adjusted basis computed under subsection (e), the deduction provided by section 23 (l) shall, despite the provisions of subsection (a) (3) of this section, be allowed with respect to such grain storage facility as if the adjusted basis for the purpose of such deduction were an amount equal to the amount of such excess.

"(g) Life tenant and remainderman: In the case of property held by one person for life with remainder to another person, the amortization deduction provided in subsection (a) shall be computed as if the life tenant were the absolute owner of the property and shall be allowed to the life tenant."

(b) Technical amendments:

(1) Section 23 (t) is hereby amended to read as follows:

"(t) Amortization deduction: The deduction for amortization provided in sections 124, 124A, and 124B."

(2) Section 172 is hereby amended by striking out "of emergency facilities."

(3) Section 190 is hereby amended by inserting after "emergency facilities" the following: "or grain storage facilities."

(c) Effective date: The amendments made by subsections (a) and (b) shall apply only with respect to taxable years ending after the date of the enactment of this act.

SEC. 207. Exclusion of certain transfers taking effect at death.

(a) Decedents dying after February 10, 1939: Paragraph (1) of section 811 (c) (relating to the inclusion of certain interests in the decedent's gross estate) is hereby amended by inserting after subparagraph (C) the following:

"Subparagraph (B) shall not apply to a transfer made before March 4, 1931; nor shall subparagraph (B) apply to a transfer made after March 3, 1931, and before June 7, 1932, unless the property transferred would have been includible in the decedent's gross estate by reason of the amendatory language of the joint resolution of March 3, 1931 (46 Stat. 1516)."

(b) Decedents dying before February 11, 1939: For the purposes of section 302 (c) of the Revenue Act of 1926, as amended, an interest of a decedent shall not be included in his gross estate as intended to take effect in possession or enjoyment at or after his death unless it would have been includible as such a transfer under section 811 (c) (2) of the Internal Revenue Code, as amended by section 7 of Public Law 378, 81st Congress, approved October 25, 1949 (63 Stat. 891), had such section 811 (c) (2), as so amended, applied to the estate of such decedent. No refund or credit of any overpayment resulting from the application of this subsection shall be allowed or made if prevented by the operation of the statute of limitations or by any other law or rule of law; except that if the determination of the Federal estate-tax liability in respect of the estate of any decedent dying before February 11, 1939, was pending on January 17, 1949, in the Tax Court of the United States or in any other court of competent jurisdiction, or if a decision of the Tax Court of the United States or such other court determining such estate-tax liability did not become final until on or after January 17, 1949, then refund or credit of any overpayment resulting from the application of this subsection may, nevertheless, be made or allowed if claim therefor is filed within 1 year from the date of the enactment of this act, notwithstanding section 319 (a) of the Revenue Act of 1926 or any other law or rule of law which would otherwise prevent the allowance of such refund or credit.

(c) Interest: No interest shall be allowed or paid on any overpayment resulting from the application of this section with respect to any payment made before the date of the enactment of this act.

(d) Effective date: The amendment made by subsection (a) shall apply only with respect to estates of decedents dying after February 10, 1939. Subsection (b) shall apply only with respect to estates of decedents dying before February 11, 1939.

SEC. 208. Failure to relinquish a power in certain disability cases.

(a) Amendment of section 811 (d): Section 811 (d) (relating to revocable transfers) is hereby amended by inserting after paragraph (3) thereof the following new paragraph:

"(4) Effect of disability in certain cases: For the purposes of this subsection, in the case of a decedent who was (for a continuous period beginning not less than 3 months before December 31, 1947, and ending with his death) under a mental disability to relinquish a power, the term 'power' shall not include a power the relinquishment of which on or after January 1, 1940, and on or before December 31, 1947, would, by reason of section 1000 (e), be deemed not to be a transfer of property for the purposes of chapter 4."

(b) Effective date: The amendment made by subsection (a) shall apply only with respect to estates of decedents dying after December 31, 1950.

SEC. 209. Reversionary interests in case of life insurance.

(a) Decedents dying after January 10, 1941, and before October 22, 1942: Effective with respect to estates of decedents dying after January 10, 1941, and before October 22, 1942, the proceeds of life insurance receivable by beneficiaries other than the executor shall not be included in the gross estate of a decedent under section 811 (g) of the Internal Revenue code unless such proceeds would have been includible under section 404 (c) of the Revenue Act of 1942 (as amended by sec. 503 (a) of the Revenue Act of 1950) had such section 404 (c), as so amended, applied to such estate.

(b) Interest: No interest shall be allowed or paid on any overpayment resulting from the application of subsection (a) with respect to any payment made before the date of the enactment of this act.

SEC. 210. Marital deduction in certain cases where decedent died before April 3, 1948.

(a) In general: In the case of an interest in property passing by will from the decedent, if the surviving spouse is entitled for life to all the income from such property, payable annually or at more frequent intervals, with power in the surviving spouse to use and consume such portion of the property as the surviving spouse may need or desire for her (or his) comfortable support and maintenance, and with no power in any person other than the surviving spouse to appoint any part of such property, then—

(1) the interest so passing shall, for the purposes of subparagraph (A) of section 812 (e) (1) of the Internal Revenue Code, be considered as passing to the surviving spouse; and

(2) no part of the interest so passing shall, for the purposes of subparagraph (B) (1) of section 812 (e) (1) of the Internal Revenue Code, be considered as passing to any person other than the surviving spouse.

Nothing in this subsection shall be construed to permit the same items to be twice deducted.

(b) Election: The provisions of subsection (a) shall apply only if the surviving spouse files an election under this section with the Secretary within one year after the date of the enactment of this Act under such regulations as the Secretary shall prescribe. If such election is so filed, the property subject to such power shall, notwithstanding any other provision of law, be considered for purposes of chapters 3 and 4 of the Internal Revenue Code as property as to which the surviving spouse had a general power of appointment exercisable by deed or will. If the surviving spouse has made an election pursuant to this section, the periods of limitation provided in chapters 3 and 4 of the Internal Revenue Code on the making of an assessment and the beginning of distraint or a proceeding in court for collection shall, with respect to any deficiency and interest thereon resulting from such election, include one year immediately following the date such election is filed, and such assessment and collection may be made notwithstanding any provision of law or any rule of law which otherwise would prevent such assessment and collection.

(c) Interest: No interest shall be allowed or paid on any overpayment resulting from the application of this section.

(d) Effective date: This section shall apply only with respect to estates of decedents dying after December 31, 1947, and on or before the date of the enactment of the Revenue Act of 1948. If refund or credit of any overpayment resulting from the application of subsections (a) and (b) is prevented on the date of the enactment of this Act, or within one year from such date, by the operation of any law or rule of law (other than sec. 3760 of the Internal Revenue Code, relating to closing agreements, and other than section 3761 of such code, relating to compromises), refund or credit of such overpayment may, nevertheless, be made or allowed if claim therefor is filed within one year from the date of the enactment of this Act.

SEC. 211. Mitigation of effect of statute of limitations.

(a) Amendment of section 3801 (b): Section 3801 (b) (relating to circumstances of adjustment) is hereby amended by inserting after paragraph (5) the following new paragraphs:

"(6) Disallows a deduction or credit which should have been allowed to, but was not allowed to, the taxpayer for another taxable year, or to a related taxpayer; but this paragraph shall apply only if (A) the determination became final on or after July 1, 1952, and (B) credit or refund of the overpayment attributable to the deduction or credit which should have been allowed to the taxpayer or related taxpayer was not barred, by any law or rule of law, at or after the time the taxpayer first maintained before the Secretary or the Tax Court of the United States, in writing, that he was entitled to such deduction or credit in the taxable year for which it is so disallowed; or

"(7) Requires the exclusion from gross income of an item which is includible in the gross income of the taxpayer for another tax-

able year or in the gross income of a related taxpayer; but this paragraph shall apply only if (A) the determination became final on or after July 1, 1952, and (B) assessment of deficiency under section 272 (a) by the Secretary for such other taxable year or against such related taxpayer was not barred, by any law or rule of law, at the time the Secretary first maintained in a notice of deficiency sent pursuant to section 272 (a) or before the Tax Court of the United States, that such item should be included in the gross income of the taxpayer for the taxable year to which the determination relates—."

(b) Technical amendments:

(1) Paragraph (5) of section 3801 (b) is hereby amended by striking out "transaction—" and inserting in lieu thereof "transaction; or."

(2) The second sentence of section 3801 (b) is hereby amended by striking out "Such" and inserting in lieu thereof "Except in cases described in paragraphs (6) and (7), such."

(c) Effective date: The amendments made by subsections (a) and (b) shall be effective as if included in the Internal Revenue Code at the time of its enactment. In any case in which the determination referred to in paragraph (6) or (7) of section 3801 (b), as amended by subsection (a) of this section, became final before the date of the enactment of this act, the 1-year period described in section 3801 (c) shall be extended to include the 1-year period beginning with the date of the enactment of this Act.

(Mr. REED of New York asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. REED of New York. Mr. Speaker, H. R. 6426 is a bill to amend the Internal Revenue Code to extend the time during which certain provisions relating to income and estate taxes shall apply, and for other purposes.

One of the most important provisions of the bill revokes section 116 (a) (2) of the Internal Revenue Code effective April 14, 1953. This is the provision which enables movie actors and other citizens with large incomes to escape any liability from United States income taxes on compensation received for services rendered abroad if they remain outside of this country for at least 17 out of 18 consecutive months. The committee's action envisages no changes in existing law applicable to United States citizens who establish bona fide residence abroad.

Another important amendment will allow an income-tax deduction for the amortization of farm-storage facilities built in calendar year 1953 and in the three succeeding calendar years. The amendment will permit taxpayers to elect to amortize such facilities over a 5-year period. This action is taken in order to alleviate the present acute shortage of grain-storage facilities.

The bill contains a number of extensions of time. For example, it extends to January 1, 1955, the provisions of section 939 of the Internal Revenue Code with respect to exemption from the additional estate tax of members of the Armed Forces dying as a result of service in a combat zone.

Another section amends section 201 of the Internal Revenue Code which provides for the income taxation of life insurance companies to extend the present method of taxing such companies to taxable years beginning in 1953.

In addition to the various extension provisions, there are also a number of minor technical amendments which are fully explained in the committee report.

There are no excise-tax provisions in this bill.

The Treasury Department is not opposed to any section of the bill and endorses many of them.

The bill was reported unanimously by the committee.

(Mr. COOPER asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. COOPER. Mr. Speaker, this bill was reported unanimously by the Committee on Ways and Means.

It is designed primarily to take care of situations where a time element is involved, such as a continuation for 1 year of the stopgap formula for the taxation of life insurance companies, pending the working out of permanent legislation, cases in which an election was permitted under recent amendments to the internal-revenue code and the regulations were not issued by the Bureau of Internal Revenue until a few days before the election was to have been made, and the correction of certain unintended oversights in the tax laws.

There is also one amendment which would close an apparent loophole which has developed as the result of an amendment made in the Revenue Act of 1951, under which it has been alleged that movie actors in particular have been going to foreign countries and staying there for 17 out of 18 consecutive months in order to free themselves from Federal income tax on their income earned abroad.

I hope that the bill will be passed.

CROP STORAGE

Mr. MARTIN of Iowa. Mr. Speaker, the purpose of this bill (H. R. 6426) is to create, within the free enterprise system, adequate crop-storage facilities in the areas where the crops are grown or where they are used for feed. It is designed to encourage storage on the farms and in commercial or cooperative storage warehouses in farming areas.

This measure has the support of the American Farm Bureau Federation and the approval of both the Department of Agriculture and the Treasury. Those who favor it are confident that it will do much to assure the farmers of adequate crop-storage facilities in their home areas, and will thus do much to stabilize markets for farm produce.

Under the terms of the bill individual farmers, storage companies, or cooperatives will be allowed to amortize over a 5-year period crop-storage facilities completed in 4 taxable years from the time of the enactment of this act, this to include facilities completed between January 1, 1953, and December 31, 1956.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AGRICULTURAL APPROPRIATION BILL

Mr. H. CARL ANDERSEN. Mr. Speaker, I ask unanimous consent that the conferees on the disagreeing votes of the two Houses on the bill H. R. 5227, the agricultural appropriation bill, 1954, may have until midnight tonight to file a report.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The conference report and statement are as follows:

CONFERENCE REPORT (H. REPT. No. 900)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 5227) making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1954, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 1, 9, 16, 17, 18, 19, 22, 25, and 26.

That the House recede from its disagreement to the amendments of the Senate numbered 3, 5, 6, 8, 20, 21, 24, 27, 28, 29, 30, 31, 32, 33, 34, 35, and 36, and agree to the same.

Amendment numbered 2: That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$2,246,000"; and the Senate agree to the same.

Amendment numbered 7: That the House recede from its disagreement to the amendment of the Senate numbered 7, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$4,049,500"; and the Senate agree to the same.

Amendment numbered 10: That the House recede from its disagreement to the amendment of the Senate numbered 10, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$7,725,000"; and the Senate agree to the same.

Amendment numbered 11: That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$12,074,000"; and the Senate agree to the same.

Amendment numbered 12: That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$3,982,830"; and the Senate agree to the same.

Amendment numbered 13: That the House recede from its disagreement to the amendment of the Senate numbered 13, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$6,487,000"; and the Senate agree to the same.

Amendment numbered 14: That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$2,675,000"; and the Senate agree to the same.

Amendment numbered 15: That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$600,000"; and the Senate agree to the same.

Amendment numbered 23: That the House recede from its disagreement to the amendment of the Senate numbered 23, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amend-

83D CONGRESS
1ST SESSION

H. R. 6426

IN THE SENATE OF THE UNITED STATES

JULY 23 (legislative day, JULY 6), 1953

Read twice and referred to the Committee on Finance

AN ACT

To amend the Internal Revenue Code to extend the time during which certain provisions relating to income and estate taxes shall apply, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) SHORT TITLE.—This Act, divided into titles and sections according to the following table of contents, may be cited as the "Technical Changes Act of 1953":

TABLE OF CONTENTS

TABLE OF CONTENTS—Continued

(b) ACT AMENDATORY OF INTERNAL REVENUE CODE.—Except as otherwise expressly provided, wherever in this Act an amendment or repeal is expressed in terms of an amendment to or repeal of a chapter, subchapter, title, supplement, section, subsection, subdivision, paragraph, subparagraph, or clause, the reference shall be considered to be made to a provision of the Internal Revenue Code.

(c) MEANING OF TERMS USED.—Except as otherwise expressly provided, terms used in this Act shall have the same meaning as when used in the Internal Revenue Code:

TITLE I—EXTENSION PROVISIONS

SEC. 101. ELECTION AS TO RECOGNITION OF GAIN IN CERTAIN CORPORATE LIQUIDATIONS.

(a) AMENDMENT OF SECTION 112 (b) (7).—Section 112 (b) (7) (relating to recognition of gain in certain corporate liquidations) is hereby amended by striking out "1951 or 1952" in subparagraph (A) (ii) and inserting in lieu thereof "1951, 1952, or 1953".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to taxable years ending after December 31, 1952.

SEC. 102. EXTENSION OF TIME TO MAKE ELECTION IN RESPECT OF EXCESSIVE DEPRECIATION ALLOWED FOR PERIODS BEFORE 1952.

(a) AMENDMENT OF SECTION 113 (d).—So much of section 113 (d) (relating to election in respect of depreciation, etc., allowed before 1952) as follows the first sentence thereof is hereby amended to read as follows: "Such an election shall be made in such manner as the Secretary may by regulations prescribe and shall be irrevocable when made, except that an election made on or before December 31,

1952, may be revoked at any time before January 1, 1955. A revocation of an election shall be made in such manner as the Secretary may by regulations prescribe, and no election may be made by any person after he has so revoked an election. The election shall apply in respect of all property held by the person making the election at any time on or before December 31, 1952, and in respect of all periods since February 28, 1913, and before January 1, 1952, during which such person held such property or for which adjustments must be made under subsection (b) (2). An election or a revocation of an election by a transferor, donor, or grantor made after the date of the transfer, gift, or grant of property shall not affect the basis of such property in the hands of the transferee, donee, or grantee. No election may be made under this subsection after December 31, 1954."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective as if included in the amendment made by section 2 of Public Law 539, Eighty-second Congress, at the time of its enactment.

SEC. 103. EXTENSION OF TIME FOR MAKING ELECTION WITH RESPECT TO WAR-LOSS RECOVERIES.

Section 127 (c) (5) (relating to election with respect to war-loss recoveries) is hereby amended by striking out

"December 31, 1952" and inserting in lieu thereof "December 31, 1953".

SEC. 104. EXTENSION OF PERIOD OF ABATEMENT OF INCOME TAXES OF MEMBERS OF ARMED FORCES UPON DEATH.

Section 154 (relating to income taxes of members of Armed Forces on death) is hereby amended by striking out "January 1, 1954" and inserting in lieu thereof "January 1, 1955".

SEC. 105. EXTENSION OF TEMPORARY PROVISIONS RELATING TO LIFE INSURANCE COMPANIES.

(a) TAX FOR 1953.—Sections 201 (a) (1) (relating to imposition of tax on life insurance companies), 203A (relating to 1951 and 1952 adjusted normal-tax net income of life insurance companies), and 433 (a) (1) (H) (relating to excess profits net income of life insurance companies) are each hereby amended by striking out "1951 and 1952" wherever appearing therein and inserting in lieu thereof "1953".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply only to taxable years beginning in 1953. The application of the amendment to section 201 (f) (relating to disallowance of double deductions) made by

section 336 (c) (2) of the Revenue Act of 1951 is hereby extended to taxable years beginning after December 31, 1952.

SEC. 106. EXTENSION OF PERIOD FOR EXEMPTION FROM ADDITIONAL ESTATE TAX OF MEMBERS OF ARMED FORCES UPON DEATH.

Section 939 (b) (relating to the tax treatment of estates of certain members of the Armed Forces) is hereby amended by striking out "JANUARY 1, 1954" and inserting in lieu thereof "JANUARY 1, 1955", and by striking out "January 1, 1954" and inserting in lieu thereof "January 1, 1955".

TITLE II—MISCELLANEOUS

SEC. 201. VENUE OF ACTIONS FOR VIOLATIONS OF ACT OF OCTOBER 19, 1949.

(a) AMENDMENT OF ACT.—Section 2 of the Act entitled "An Act to assist States in collecting sales and use taxes on cigarettes", approved October 19, 1949 (15 U. S. C., sec. 376), is hereby amended by striking out "forward to" and inserting in lieu thereof "file with".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply only in respect of memoranda or copies of invoices covering shipments made during the calendar month in which this Act is enacted and subsequent calendar months.

SEC. 202. DEDUCTION OF CERTAIN UNPAID EXPENSES AND INTEREST.

(a) AMENDMENT OF SECTION 24 (c).—Paragraph (1) of section 24 (c) (relating to disallowance of certain deductions for expenses incurred and interest accrued) is hereby amended to read as follows:

"(1) If within the period consisting of the taxable year of the taxpayer and two and one-half months after the close thereof (A) such expenses or interest are not paid, and (B) the amount thereof is not includible in the gross income of the person to whom the payment is to be made; and".

(b) EFFECTIVE DATE.—

(1) Except as otherwise provided in paragraph (2), the amendment made by subsection (a) shall apply only with respect to taxable years beginning after December 31, 1950.

(2) At the election of a taxpayer (hereinafter in this paragraph referred to as the "payor") made within one year after the date of the enactment of this Act, the amendment made by subsection (a) shall also apply with respect to such taxable years of the payor beginning after December 31, 1945, and before January 1, 1951, as are specified by the payor in making such election. Such election for any

taxable year shall not be valid as to any amount unless, at or before the time when such election is filed—

(A) the person (hereinafter in this paragraph referred to as the "payee") to whom such amount was payable included such amount in gross income for his taxable year for which such amount was includible in gross income, or

(B) the payee files a written consent to the assessment and collection of any deficiency and interest resulting from the payee's failure to include such amount in gross income for such taxable year, or

(C) the payor pays an amount equal to the deficiency and interest which would be payable by the payee pursuant to subparagraph (B) if he filed such consent. (Any amount paid under this subparagraph shall be assessed, notwithstanding any law or rule of law to the contrary, as an addition to the tax of the payor for the year for which the election is filed.)

The periods of limitation provided in sections 275 and 276 of the Internal Revenue Code on the making of an assessment and the beginning of distraint or a proceeding in court for collection shall, with respect to any deficiency and interest thereon resulting from any consent filed pursuant to subparagraph (B), include one year immediately following the

date such consent is filed, and such assessment and collection may be made notwithstanding any provision of law or any rule of law which otherwise would prevent such assessment and collection. If an election by a payor should be filed for a taxable year of the payor for which allowance of credit or refund of an overpayment is barred (at the time of such filing) by any law or rule of law, any consent filed by the payee in respect of any amount which represents expenses incurred or interest accrued by the payor for such year shall be void. If a consent requires the inclusion in the gross income of the payee for any taxable year of an amount which was erroneously included in the gross income of the payee for another taxable year and, on the date the consent is filed, correction of the effect of the error is prevented by the operation of any provision of the internal-revenue laws other than section 3761 of the Internal Revenue Code (relating to compromises), then the effect of the error shall be corrected in accordance with section 3801 of the Internal Revenue Code as if the consent were a determination under such section 3801 in which there is adopted a position maintained by the Secretary of the Treasury. The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out the provisions of this paragraph.

SEC. 203. BASIS OF CERTAIN PROPERTY TRANSFERRED IN TRUST.

(a) AMENDMENT OF SECTION 113 (a) (5).—The second sentence of section 113 (a) (5) (relating to the basis of property transmitted at death) is hereby amended by inserting immediately after the words "revoke the trust" the following: "or to make any change in the enjoyment thereof through the exercise of a power to alter, amend, or terminate the trust".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply (1) only in the case of property transferred by grantors dying after December 31, 1951, and (2) only with respect to taxable years ending after December 31, 1951.

SEC. 204. EARNED INCOME FROM SOURCES WITHOUT THE UNITED STATES.

(a) AMENDMENT OF SECTION 116 (a) (2).—Section 116 (a) (2) (relating to exclusion from gross income of earned income from sources without the United States) is hereby amended—

(1) by inserting "on or before April 14, 1953," after "amounts received";

(2) by striking out "such period" the second place it appears and inserting in lieu thereof "such period of 18 consecutive months"; and

(3) by adding at the end thereof the following new sentence: "For the purpose of applying section 107 to any amount of earned income described in this paragraph which is received after April 14, 1953, this paragraph shall not apply in computing the tax attributable to any portion of such amount deemed for the purpose of section 107 to have been received on or before April 14, 1953."

(b) WITHHOLDING OF TAX ON WAGES OF CITIZENS OUTSIDE THE UNITED STATES.—So much of section 1621 (a) (8) (relating to the definition of wages) as precedes subparagraph (B) thereof is hereby amended to read as follows:

"(8) (A) for services for an employer (other than the United States or any agency thereof) (i) performed by a citizen of the United States if, at the time of the payment of such remuneration, it is reasonable to believe that such remuneration will be excluded from gross income under section 116 (a), or (ii) performed in a foreign country by such a citizen if, at the time of the payment of such remuneration, the employer is required by the law of any foreign country to withhold income tax upon such remuneration, or".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to taxable years ending

after April 14, 1953. The amendments made by subsections (a) and (b) shall not affect the liability of any employer to deduct and withhold the tax imposed by section 1622 in the case of any remuneration paid before the first day of the first month beginning more than ten days after the date of the enactment of this Act.

SEC. 205. NET OPERATING LOSS CARRY-OVERS.

(a) AMENDMENT OF SECTION 122 (b) (2).—

(1) Section 122 (b) (2) (relating to net operating loss carry-over) is hereby amended by adding after subparagraph (D) the following new subparagraphs:

"(E) Loss For Taxable Years of Corporations Beginning In 1947 And Ending In 1948.—If a corporation (other than a corporation which commenced business after December 31, 1945) has a net operating loss for a taxable year beginning in 1947 and ending in 1948, subparagraph (C) shall apply as if the taxable year began after December 31, 1947; except that the net operating loss carry-over for the third succeeding taxable year shall not exceed that amount which bears the same ratio to the net operating loss as the number of days in the taxable year after December 31, 1947, bears to the total number of days in the taxable year.

"(F) Loss in Case of Corporations Whose

First Taxable Year Began in 1949 and Ended in 1950.—If the first taxable year of a corporation began in 1949 and ended in 1950, and if the corporation had a net operating loss for such first taxable year, there shall be a net operating loss carry-over for the fourth and fifth succeeding taxable years. The amount of such carry-over shall be determined in accordance with the first sentence of subparagraph (B); except that—

"(i) such carry-over for the fourth succeeding taxable year shall not exceed so much of such net operating loss as is allocable to 1950, and

"(ii) such carry-over for the fifth succeeding taxable year shall not exceed the amount by which the carry-over for the fourth succeeding taxable year (as limited by clause (i) of this sentence) exceeds the net income for the fourth succeeding taxable year computed as provided in clauses (i) and (ii) of the first sentence of subparagraph (B).

For the purposes of the preceding sentence, the portion of the net operating loss which is allocable to 1950 shall be an amount which bears the same ratio to such loss as the number of days in the taxable

year after December 31, 1949, bears to the total number of days in the taxable year."

(2) Subparagraph (A) of section 122 (b) (2) is hereby amended by striking out "subparagraph (D)," and inserting in lieu thereof "subparagraphs (D) and (E),".

(3) The amendment made by paragraph (2), and subparagraph (E) of section 122 (b) (2) of the Internal Revenue Code as added by paragraph (1), shall apply with respect to taxable years ending after December 31, 1947. Subparagraph (F) of section 122 (b) (2) of the Internal Revenue Code as added by paragraph (1) shall apply with respect to taxable years ending after December 31, 1949.

(b) SUCCESSOR RAILROAD CORPORATIONS.—

(1) Subsection (c) of the first section of the Act of July 15, 1947 (61 Stat. 324), relating to allowance to successor railroad corporations of benefits of certain carry-overs of predecessor corporations, is hereby amended to read as follows:

"(c) For the purposes of this section, if the period, beginning on the first day of the taxable year of the predecessor corporation in which the acquisition occurred and ending on the last day of the taxable year of the successor

corporation in which the acquisition occurred, is not more than twelve months, then—

"(1) if such net operating loss or unused excess profits credit was for a taxable year beginning before January 1, 1948, the number of succeeding taxable years to which such net operating loss or unused excess profits credit is a carry-over shall be three (instead of two, as respectively provided in section 122 (b) (2) (A) and section 710 (c) (3) (B) of such code); and

"(2) if such net operating loss was for a taxable year beginning after December 31, 1947, and before January 1, 1950, the number of succeeding taxable years to which such net operating loss is a carry-over shall be four (instead of three, as provided in section 122 (b) (2) (C) of such code);

and such regulations shall prescribe (as nearly as possible in the manner respectively prescribed in sections 122 (b) (2) and 710 (c) (3) (B) of such code with respect to a net operating loss or an unused excess profits credit, as the case may be, for such taxable year) the amount to be carried over to the last of such succeeding taxable years."

(2) The amendment made by paragraph (1) shall be effective as if included in such Act of July 15, 1947, at the time of its enactment.

SEC. 206. AMORTIZATION DEDUCTION FOR GRAIN STORAGE FACILITIES.

(a) ALLOWANCE OF DEDUCTION.—Supplement B of subchapter C of chapter 1 is hereby amended by inserting after section 124A the following new section:

"SEC. 124B. AMORTIZATION DEDUCTION FOR GRAIN STORAGE FACILITIES.

"(a) ALLOWANCE OF DEDUCTION.—

"(1) ORIGINAL OWNER.—Any person who constructs, reconstructs, or erects a grain storage facility (as defined in subsection (d)) shall, at his election, be entitled to a deduction with respect to the amortization of the adjusted basis (for determining gain) of such facility based on a period of sixty months. The sixty-month period shall begin as to any such facility, at the election of the taxpayer, with the month following the month in which the facility was completed, or with the succeeding taxable year.

"(2) SUBSEQUENT OWNERS.—Any person who acquires a grain storage facility from a taxpayer who—

"(A) elected under subsection (b) to take the amortization deduction provided by this subsection with respect to such facility, and

"(B) did not discontinue the amortization deduction pursuant to subsection (c).

shall, at his election, be entitled to a deduction with respect to the adjusted basis (determined under subsection (e) (2)) of such facility based on the period, if any, remaining (at the time of acquisition) in the sixty-month period elected under subsection (b) by the person who constructed, reconstructed, or erected such facility.

"(3) AMOUNT OF DEDUCTION.—The amortization deduction provided in paragraphs (1) and (2) shall be an amount, with respect to each month of the amortization period within the taxable year, equal to the adjusted basis of the facility at the end of such month, divided by the number of months (including the month for which the deduction is computed) remaining in the period. Such adjusted basis at the end of the month shall be computed without regard to the amortization deduction for such month. The amortization deduction above provided with respect to any month shall be in lieu of the deduction with respect to such facility for such month provided by section 23 (l) (relating to exhaustion, wear and tear, and obsolescence).

"(b) ELECTION OF AMORTIZATION.—The election of the taxpayer under subsection (a) (1) to take the amortization deduction and to begin the sixty-month period with the month following the month in which the facility was

completed shall be made only by a statement to that effect in the return for the taxable year in which the facility was completed. The election of the taxpayer under subsection (a) (1) to take the amortization deduction and to begin such period with the taxable year succeeding such year shall be made only by a statement to that effect in the return for such succeeding taxable year. The election of the taxpayer under subsection (a) (2) to take the amortization deduction shall be made only by a statement to that effect in the return for the taxable year in which the facility was acquired. Notwithstanding the preceding three sentences, the election of the taxpayer under subsection (a) (1) or (2) may be made, under such regulations as the Secretary may prescribe, before the time prescribed in the applicable sentence.

"(c) TERMINATION OF AMORTIZATION DEDUCTION.—A taxpayer which has elected under subsection (b) to take the amortization deduction provided in subsection (a) may, at any time after making such election, discontinue the amortization deduction with respect to the remainder of the amortization period, such discontinuance to begin as of the beginning of any month specified by the taxpayer in a notice in writing filed with the Secretary before the beginning of such month. The deduction provided under section 23 (l) shall be allowed, beginning with the first month as to which

the amortization deduction is not applicable, and the taxpayer shall not be entitled to any further amortization deduction with respect to such facility.

"(d) DEFINITION OF GRAIN STORAGE FACILITY.—For the purposes of this section, the term 'grain storage facility' means—

"(1) any corn crib, grain bin, or grain elevator, or any similar structure suitable primarily for the storage of grain, which crib, bin, elevator, or structure is intended by the taxpayer at the time of his election to be used for the storage of grain produced by him (or, if the election is made by a partnership, produced by the members thereof) ; and

"(2) any public grain warehouse permanently equipped for receiving, elevating, conditioning, and loading out grain,

the construction, reconstruction, or erection of which was completed after December 31, 1952, and on or before December 31, 1956. If any structure described in clause (1) or (2) of the preceding sentence is altered or remodeled so as to increase its capacity for the storage of grain, or if any structure is converted, through alteration or remodelling, into a structure so described, and if such alteration or remodelling was completed after December 31, 1952, and on or before December 31, 1956, such alteration or remodelling

shall be treated as the construction of a grain storage facility. The term 'grain storage facility' shall include only property of a character which is subject to the allowance for depreciation provided in section 23 (l). The term 'grain storage facility' shall not include any facility any part of which is an emergency facility within the meaning of section 124A.

"(e) DETERMINATION OF ADJUSTED BASIS.—

"(1) ORIGINAL OWNERS.—For the purpose of subsection (a) (1)—

"(A) in determining the adjusted basis of any grain storage facility, the construction, reconstruction, or erection of which was begun before January 1, 1953, there shall be included only so much of the amount of the adjusted basis (computed without regard to this subsection) as is properly attributable to such construction, reconstruction, or erection after December 31, 1952, and

"(B) in determining the adjusted basis of any facility which is a grain storage facility within the meaning of the second sentence of subsection (d), there shall be included only so much of the amount otherwise included in such basis as is properly attributable to the alteration or remodeling.

If any existing grain storage facility as defined in the first sentence of subsection (d) is altered or re-

modeled as provided in the second sentence of subsection (d), the expenditures for such remodeling or alteration shall not be applied in adjustment of the basis of such existing facility but a separate basis shall be computed in respect of such facility as if the part altered or remodeled were a new and separate grain storage facility.

"(2) SUBSEQUENT OWNERS.—For the purpose of subsection (a) (2), the adjusted basis of any grain storage facility shall be whichever of the following amounts is the smaller: (A) The basis (unadjusted) of such facility for the purposes of this section in the hands of the transferor, donor, or grantor, adjusted as if such facility in the hands of the taxpayer had a substitute basis within the meaning of section 113 (b) (2) (A), or (B) so much of the adjusted basis (for determining gain) of the facility in the hands of the taxpayer (as computed without regard to this subsection) as is properly attributable to construction, reconstruction, or erection after December 31, 1952.

"(f) DEPRECIATION DEDUCTION.—If the adjusted basis of the grain storage facility (computed without regard to subsection (e)) exceeds the adjusted basis computed under subsection (e), the deduction provided by section 23 (l) shall, despite the provisions of subsection (a) (3) of this

section, be allowed with respect to such grain storage facility as if the adjusted basis for the purpose of such deduction were an amount equal to the amount of such excess.

"(g) LIFE TENANT AND REMAINDERMAN.—In the case of property held by one person for life with remainder to another person, the amortization deduction provided in subsection (a) shall be computed as if the life tenant were the absolute owner of the property and shall be allowed to the life tenant."

(b) TECHNICAL AMENDMENTS.—

(1) Section 23 (t) is hereby amended to read as follows:

"(t) AMORTIZATION DEDUCTION.—The deduction for amortization provided in sections 124, 124A, and 124B."

(2) Section 172 is hereby amended by striking out "of emergency facilities".

(3) Section 190 is hereby amended by inserting after "emergency facilities" the following: "or grain storage facilities".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply only with respect to taxable years ending after the date of the enactment of this Act.

SEC. 207. EXCLUSION OF CERTAIN TRANSFERS TAKING EFFECT AT DEATH.

(a) DECEDENTS DYING AFTER FEBRUARY 10, 1939.—Paragraph (1) of section 811 (c) (relating to the inclusion of certain interests in the decedent's gross estate) is hereby amended by inserting after subparagraph (C) the following:

"Subparagraph (B) shall not apply to a transfer made before March 4, 1931; nor shall subparagraph (B) apply to a transfer made after March 3, 1931, and before June 7, 1932, unless the property transferred would have been includible in the decedent's gross estate by reason of the amendatory language of the joint resolution of March 3, 1931 (46 Stat. 1516)."

(b) DECEDENTS DYING BEFORE FEBRUARY 11, 1939.—For the purposes of section 302 (c) of the Revenue Act of 1926, as amended, an interest of a decedent shall not be included in his gross estate as intended to take effect in possession or enjoyment at or after his death unless it would have been includible as such a transfer under section 811 (c) (2) of the Internal Revenue Code, as amended by section 7 of Public Law 378, Eighty-first Congress, approved October 25, 1949 (63 Stat. 891), had such section 811 (c) (2), as so amended, applied to the estate of such dece-

dent. No refund or credit of any overpayment resulting from the application of this subsection shall be allowed or made if prevented by the operation of the statute of limitations or by any other law or rule of law; except that if the determination of the Federal estate tax liability in respect of the estate of any decedent dying before February 11, 1939, was pending on January 17, 1949, in the Tax Court of the United States or in any other court of competent jurisdiction, or if a decision of the Tax Court of the United States or such other court determining such estate tax liability did not become final until on or after January 17, 1949, then refund or credit of any overpayment resulting from the application of this subsection may, nevertheless, be made or allowed if claim therefor is filed within one year from the date of the enactment of this Act, notwithstanding section 319 (a) of the Revenue Act of 1926 or any other law or rule of law which would otherwise prevent the allowance of such refund or credit.

(c) INTEREST.—No interest shall be allowed or paid on any overpayment resulting from the application of this section with respect to any payment made before the date of the enactment of this Act.

(d) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply only with respect to estates of

decedents dying after February 10, 1939. Subsection (b) shall apply only with respect to estates of decedents dying before February 11, 1939.

SEC. 208. FAILURE TO RELINQUISH A POWER IN CERTAIN DISABILITY CASES.

(a) AMENDMENT OF SECTION 811 (d).—Section 811 (d) (relating to revocable transfers) is hereby amended by inserting after paragraph (3) thereof the following new paragraph:

"(4) EFFECT OF DISABILITY IN CERTAIN CASES.—For the purposes of this subsection, in the case of a decedent who was (for a continuous period beginning not less than three months before December 31, 1947, and ending with his death) under a mental disability to relinquish a power, the term 'power' shall not include a power the relinquishment of which on or after January 1, 1940, and on or before December 31, 1947, would, by reason of section 1000 (e), be deemed not to be a transfer of property for the purposes of chapter 4."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply only with respect to estates of decedents dying after December 31, 1950.

SEC. 209. REVERSIONARY INTERESTS IN CASE OF LIFE INSURANCE.

(a) DECEDENTS DYING AFTER JANUARY 10, 1941, AND BEFORE OCTOBER 22, 1942.—Effective with respect to estates of decedents dying after January 10, 1941, and before October 22, 1942, the proceeds of life insurance receivable by beneficiaries other than the executor shall not be included in the gross estate of a decedent under section 811 (g) of the Internal Revenue Code unless such proceeds would have been includible under section 404 (c) of the Revenue Act of 1942 (as amended by section 503 (a) of the Revenue Act of 1950) had such section 404 (c), as so amended, applied to such estate.

(b) INTEREST.—No interest shall be allowed or paid on any overpayment resulting from the application of subsection (a) with respect to any payment made before the date of the enactment of this Act.

SEC. 210. MARITAL DEDUCTION IN CERTAIN CASES WHERE DECEDENT DIED BEFORE APRIL 3, 1948.

(a) IN GENERAL.—In the case of an interest in property passing by will from the decedent, if the surviving spouse is entitled for life to all the income from such property, payable annually or at more frequent intervals, with power in the surviving spouse to use and consume such portion of the property as the surviving spouse may need or desire for her

(or his) comfortable support and maintenance, and with no power in any person other than the surviving spouse to appoint any part of such property, then—

(1) the interest so passing shall, for the purposes of subparagraph (A) of section 812 (e) (1) of the Internal Revenue Code, be considered as passing to the surviving spouse; and

(2) no part of the interest so passing shall, for the purposes of subparagraph (B) (i) of section 812 (e) (1) of the Internal Revenue Code, be considered as passing to any person other than the surviving spouse. Nothing in this subsection shall be construed to permit the same items to be twice deducted.

(b) ELECTION.—The provisions of subsection (a) shall apply only if the surviving spouse files an election under this section with the Secretary within one year after the date of the enactment of this Act under such regulations as the Secretary shall prescribe. If such election is so filed, the property subject to such power shall, notwithstanding any other provision of law, be considered for purposes of chapters 3 and 4 of the Internal Revenue Code as property as to which the surviving spouse had a general power of appointment exercisable by deed or will. If the surviving spouse has made an election pursuant to this section, the periods of limitation provided in chapters 3 and 4 of the

Internal Revenue Code on the making of an assessment and the beginning of distraint or a proceeding in court for collection shall, with respect to any deficiency and interest thereon resulting from such election, include one year immediately following the date such election is filed, and such assessment and collection may be made notwithstanding any provision of law or any rule of law which otherwise would prevent such assessment and collection.

(c) INTEREST.—No interest shall be allowed or paid on any overpayment resulting from the application of this section.

(d) EFFECTIVE DATE.—This section shall apply only with respect to estates of decedents dying after December 31, 1947, and on or before the date of the enactment of the Revenue Act of 1948. If refund or credit of any overpayment resulting from the application of subsections (a) and (b) is prevented on the date of the enactment of this Act, or within one year from such date, by the operation of any law or rule of law (other than section 3760 of the Internal Revenue Code, relating to closing agreements, and other than section 3761 of such code, relating to compromises), refund or credit of such overpayment may, nevertheless, be made or allowed if claim therefor is filed within one year from the date of the enactment of this Act.

SEC. 211. MITIGATION OF EFFECT OF STATUTE OF LIMITATIONS.

(a) AMENDMENT OF SECTION 3801 (b).—Section 3801 (b) (relating to circumstances of adjustment) is hereby amended by inserting after paragraph (5) the following new paragraphs:

"(6) Disallows a deduction or credit which should have been allowed to, but was not allowed to, the taxpayer for another taxable year, or to a related taxpayer; but this paragraph shall apply only if (A) the determination became final on or after July 1, 1952, and (B) credit or refund of the overpayment attributable to the deduction or credit which should have been allowed to the taxpayer or related taxpayer was not barred, by any law or rule of law, at or after the time the taxpayer first maintained before the Secretary or the Tax Court of the United States, in writing, that he was entitled to such deduction or credit in the taxable year for which it is so disallowed; or

"(7) Requires the exclusion from gross income of an item which is includible in the gross income of the taxpayer for another taxable year or in the gross income of a related taxpayer; but this paragraph shall apply only if (A) the determination became final on or after

July 1, 1952, and (B) assessment of deficiency under section 272 (a) by the Secretary for such other taxable year or against such related taxpayer was not barred, by any law or rule of law, at the time the Secretary first maintained in a notice of deficiency sent pursuant to section 272 (a) or before the Tax Court of the United States, that such item should be included in the gross income of the taxpayer for the taxable year to which the determination relates—".

(b) TECHNICAL AMENDMENTS.—

(1) Paragraph (5) of section 3801 (b) is hereby amended by striking out "transaction—" and inserting in lieu thereof "transaction; or".

(2) The second sentence of section 3801 (b) is hereby amended by striking out "Such" and inserting in lieu thereof "Except in cases described in paragraphs (6) and (7), such".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall be effective as if included in the Internal Revenue Code at the time of its enactment. In any case in which the determination referred to in paragraph (6) or (7) of section 3801 (b), as amended by subsection (a) of this section, became final before the

date of the enactment of this Act, the one-year period described in section 3801 (c) shall be extended to include the one-year period beginning with the date of the enactment of this Act.

Passed the House of Representatives July 22, 1953.

Attest: LYLE O. SNADER,

Clerk.

83D CONGRESS
1ST SESSION

H. R. 6426

AN ACT

To amend the Internal Revenue Code to extend the time during which certain provisions relating to income and estate taxes shall apply, and for other purposes.

JULY 23 (legislative day, JULY 6), 1953
Read twice and referred to the Committee on Finance

Calendar No. 682

83D CONGRESS
1st Session

SENATE

REPORT
No. 685

AMENDING THE INTERNAL REVENUE CODE TO EXTEND THE TIME DURING WHICH CERTAIN PROVISIONS RELATING TO INCOME AND ESTATE TAXES SHALL APPLY

JULY 28 (legislative day, JULY 27), 1953.—Ordered to be printed

Mr. MILLIKIN, from the Committee on Finance, submitted the following

REPORT

[To accompany H. R. 6426]

The Committee on Finance, to whom was referred the bill (H. R. 6426) to amend the Internal Revenue Code to extend the time during which certain provisions relating to income and estate taxes shall apply, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Section 204 (a) is amended by striking out lines 17 through 25, inclusive, on page 10 and lines 1 through 8, inclusive, on page 11 and inserting in lieu thereof the following:

(a) AMENDMENT OF SECTION 116 (a) (2).—Section 116 (a) (2) (relating to exclusion from gross income of earned income from sources without the United States) is hereby amended by adding at the end thereof the following new sentences: If the 18-month period includes the entire taxable year, the amount excluded under this paragraph for such taxable year shall not exceed $20,000. If the 18-month period does not include the entire taxable year, the amount excluded under this paragraph for such taxable year shall not exceed an amount which bears the same ratio to $20,000 as the number of days in the part of the taxable year within the 18-month period bears to the total number of days in such year.

Page 12, line 1, strike out "April 14, 1953" and insert:

December 31, 1952. but only to such amounts as are received on or after January 1, 1953.

Page 29, line 11, strike out "July" and insert in lieu thereof "June" and on page 30, line 1, strike out "July" and insert "June."

I. GENERAL STATEMENT

H. R. 6426 contains 17 sections dealing with amendments to the Internal Revenue Code. Six of the sections extend the period during which certain provisions of the code will apply. The other 11 sections relate to amendments to the Internal Revenue Code providing for removal of inequities in income- and estate-tax cases. Your committee believes that it is important to take care of these inequities ahead of the general revision bill which will be considered next year.

II. EXPLANATION OF THE BILL

A. Extension Provisions

Section 101. Election as to recognition of gain in certain corporate liquidations

This section extends to 1953 the provisions of section 112 (b) (7) of the Internal Revenue Code dealing with the nonrecognition of gain in certain corporate liquidations. This provision which applied to certain liquidations in a single calendar month in 1951 was extended by the Revenue Act of 1951 to such liquidations in 1952 and is further extended by this bill to such liquidations occurring in a single calendar month in 1953. Your committee believes that such an extension for 1 year is desirable to enable those who were unable to arrange for liquidation within the requisite period in 1951 or 1952 to have the benefits of this provision if they can complete such liquidations in a single calendar month in 1953.

Section 102. Extension of time for elections under Public Law 539 overruling Virginian Hotel case

In Public Law 539, approved July 14, 1952, Congress overruled the decision of the Supreme Court in the Virginian Hotel case. Under that decision a taxpayer who deducted depreciation for any year in excess of the amount allowable for such year was nevertheless required to reduce the basis of his property by the entire amount of depreciation allowed, even though he had received no tax benefit from claiming such excessive depreciation as a deduction. Under Public Law 539, the basis of the property was not required to be reduced by such excessive depreciation unless the taxpayer had received a tax benefit for taking a deduction for such excessive amount. The taxpayer was granted under the law an election (under such regulations as the Secretary prescribed) to apply this new treatment retroactively to the period since February 28, 1913, and before January 1, 1952, but no election could be made after December 31, 1952. The Treasury Regulations under the law were not promulgated until December 30, 1952. Thus taxpayers were not given sufficient time to determine whether such an election would be beneficial to them. Your committee therefore deems it desirable to extend through December 31, 1954, the time within which an election may be made. Since Public Law 539 provides that an election once made is irrevocable, the bill, in order to provide uniform treatment, permits taxpayers to revoke within the extended period elections made prior to January 1, 1953.

Section 103. Extension of time for making election with respect to war loss recoveries

Section 341 of the Revenue Act of 1951 sets forth a new method for treatment of war losses under section 127 of the Internal Revenue Code. It provides that at the election of the taxpayer (under such regulations as the Secretary may prescribe) the tax for the year in which the deduction for the war loss was taken is to be recomputed by reducing the deduction by the amount of the recovered property taken at its depreciated cost on the date of the loss or at its fair market value on the date of recovery, whichever is lower. The resulting increase in tax for the year of the loss, if any, is added to the tax for the year of recovery. The time for electing the benefit of this provision expired on December 31, 1952. Since the Treasury Regulations interpreting this section of the law were not promulgated until December 30, 1952, taxpayers did not have sufficient time to determine whether it was advantageous to make such an election. The bill extends the period for making such an election through December 31, 1953.

Section 104. Extension of period of abatement of income taxes of deceased members of Armed Forces

Section 154 of the Internal Revenue Code provides in the case of an individual who died after June 24, 1950, and prior to January 1, 1954, as a result of active service in a combat zone as a member of the Armed Forces, an abatement of income tax liability which was outstanding at the date of his death. It also provides a forgiveness of the tax with respect to the taxable year in which falls the date of his death or with respect to any prior taxable year ending on or after the first day he so served in a combat zone after June 24, 1950. The bill extends the period to which this section is applicable for one additional year so as to include the calendar year 1954.

Section 105. Extension of temporary provisions relating to life-insurance companies

The present temporary provisions for the taxation of life-insurance companies are extended for 1 year by this section of the bill. Pending the results of studies being made by the staffs of the Treasury and the Joint Committee on Internal Revenue Taxation, your committee deems it advisable to continue for 1 year the provisions of present law.

Section 106. Extension of period for exemption from additional estate tax of deceased members of Armed Forces

Section 939 (b) of the Internal Revenue Code exempts from the additional estate tax estates of decedents dying after June 24, 1950, and before January 1, 1954, while in active service as members of the Armed Forces of the United States, where such decedents were killed in action while serving in a combat zone or died from wounds, disease, or injury incurred while so serving in line of duty and by reason of a hazard to which they were subjected as an incident of such service. The bill extends the application of this section to January 1, 1955.

B. Miscellaneous

Section 201. Venue of action for violation of State cigarette tax laws

The act of October 19, 1949, provided that persons, other than distributors, who sell or dispose of cigarettes in interstate commerce must forward to the tobacco tax administrators of States to which shipments are made monthly reports setting forth the names and addresses of the persons to whom shipments are made and the brand and quantity of cigarettes so shipped. Some courts have held that under the statute violations of the act are committed at the place from which the cigarettes are shipped, since the act only requires the shippers to forward their reports. The bill requires the actual filing of the reports with the State tobacco administrator. This would have the effect of assuring, in the event of an offense committed under the act, that the venue of the action would be in the district in which the State tobacco administrator has his office.

Section 202. Deduction of certain unpaid expenses and interest

In the case of certain closely related taxpayers, such as a corporation and a shareholder owning more than 50 percent of the corporation's stock, section 24 (c) of the code operates to disallow deduction of certain expenses and interest if the following conditions are met:

(1) The amount is not paid within the taxable year or within 2½ months after the close thereof; and

(2) Under the recipient's method of accounting the amount is not, unless paid, includible in his income in the taxable year in which, or with which, the taxable year of the payor corporation ends.

This provision is intended to insure that transactions between such related taxpayers do not operate to shift items of income or deductions. A situation has been called to the attention of your committee, however, where section 24 (c) may work an undue hardship. For example, a recipient on the cash basis may have an amount credited to his account and made available to him by the corporate payor within 2½ months after the close of the payor's taxable year so that the recipient must include it in income as an item constructively received in the taxable year so credited. If, however, the corporate taxpayer fails actually to pay over such amount within the period of 2½ months, the item will not be allowed to the corporation as a deduction. Your committee believes that such a case should not fall within the ban of section 24 (c) and the bill so provides by an appropriate amendment of requirement (1) above.

The provision is applicable to taxable years of the payor beginning after December 31, 1950, but under certain conditions, set forth to insure that payments will be properly accounted for taxwise with respect to both parties, the payor may elect to make this amendment applicable to taxable years beginning after December 31, 1945, and before January 1, 1951.

Section 203. Income-tax basis of property transferred in trust

Section 113 (a) (5) of existing law contains a provision to the effect that where the grantor retains the income from property in trust for his life with power to revoke the trust, the basis of the property in the hands of the persons entitled to take the property under the terms of the trust instrument after the grantor's death shall, after such death, be the same as if the property had passed under a will executed on the

day of the grantor's death. This results in the basis of the property in the hands of the recipients being its fair market value at the date of the grantor's death or, at the election of the executor, the value 1 year from the date of death. Your committee believes that this same rule should apply to situations where the grantor with a reserved life estate has the power to make any change in the enjoyment of the corpus of the trust through the power to alter, amend, or terminate the trust. In both cases, the trust property is required to be included in the gross estate of the grantor for estate-tax purposes. The amendment applies only to grantors dying after December 31, 1951, and only with respect to taxable years ending after December 31, 1951.

Section 204. Earned income from sources without the United States

Your committee deems it advisable to amend section 116 (a) (2) of the Internal Revenue Code, effective as to amounts received after December 31, 1952. Section 116 (a) (2) excludes from income in the case of a citizen of the United States income earned abroad if such citizen was present in a foreign country or countries for a period of 17 out of 18 consecutive months. While this paragraph was designed to encourage men with technical knowledge to go abroad in order to complete specific projects, it has been subject to a great deal of abuse. Some individuals with large earnings have seized upon the provision as an inducement to go abroad to perform services, which were customarily performed at home, for the primary purpose of avoiding the Federal income taxes. It has also been ascertained that in many cases Americans taking advantage of this provision do not pay any income tax even to the foreign country or countries in which the income is earned. This is because they are not in any particular foreign country long enough to establish a residence or because the foreign country in question does not impose any income tax. Under the House bill, section 116 (a) (2) of the Internal Revenue Code is repealed effective as of April 15, 1953. Under your committee amendment, section 116 (a) (2) is retained but is limited to $20,000 of earned income if the taxpayer is abroad for the full taxable year or to a portion thereof if the taxpayer is abroad for less than the full taxable year. While the committee amendment applies to taxable years ending after December 31, 1952, it will cover only such amounts as are received on or after January 1, 1953. Your committee believes that an outright repeal of section 116 (a) (2) is not necessary to correct the reported abuses under existing law. There are many legitimate business arrangements which necessitate sending technical personnel abroad. A limitation on the amount of the earned income from foreign sources which is exempt will, in the opinion of your committee, be sufficient to correct the evils which have been brought to its attention. The bill will not affect the liability of any employer to deduct and withhold the tax on remuneration paid before the 1st day of the 1st month beginning more than 10 days after the date of the enactment of this bill. For the purpose of this provision, if an individual travels from one place in a foreign country to another place in the same country, or to a place in another foreign country and if such travel extends over a period of less than 24 hours and does not involve travel within the United States or any possession thereof, such individual shall not be deemed outside a foreign country during the period of such travel.

Section 205. Net operating loss deductions

The bill includes provisions designed to eliminate disparities in the treatment of taxpayers in respect to the taxable years to which a net operating loss may be carried forward. Under these provisions the number of years to which a net operating loss may be carried forward by certain corporations reporting income on the basis of a fiscal year has been extended. Under the cutoff dates in existing law these corporations are limited in the use of their net operating losses. For example, under existing law, if a corporation has a taxable year beginning on December 1, 1947, a net operating loss developed in that year may only be carried forward to the 2 succeeding taxable years whereas if the taxable year had begun on January 1, 1948, such may be available to offset gains of the 3 succeeding taxable years.

It is provided that in the case of a corporation, other than a corporation which commenced business after December 31, 1945, which has a net operating loss for a taxable year beginning in 1947 and ending in 1948 (so that the taxable year overlaps the critical dates) such a corporation may utilize such loss in the third succeeding taxable year. The amount of such carryover to the third year cannot exceed an amount which bears the same ratio to the net operating loss as the number of days in the loss year falling after December 31, 1947, is of the total number of days in the loss year.

In the case of a corporation the first taxable year of which began in 1949 and ended in 1950, a comparable extension is provided. Such corporations are put on a basis similar to that provided for corporations with net operating losses for taxable years beginning after 1949, that is, the net operating loss may be available for the 5 succeeding taxable years. However, the bill subjects the amount of the carryover to the fourth and fifth succeeding taxable years to a general limitation to such part of the net operating loss as is properly allocable to 1950.

The bill adds a provision amending section 1 of the act of July 15, 1947 (61 Stat. 324). This act allowed a carryforward of the net operating loss of a predecessor railroad corporation to a successor railroad corporation. Since the reorganization may have caused a short taxable year of the predecessor and of the successor to fall within one 12-month period, such corporations would, in effect, be denied the full 2-year carryforward available to other corporations, the act allowed a carryover for 3 taxable years in such cases. Section 330 (b) of the Revenue Act of 1951 added section 122 (b) (2) (C) to the code which provided, in the case of all corporations, for a 3-year carryforward of a net operating loss incurred for any taxable year beginning after December 31, 1947, and before January 1, 1950. Accordingly the bill would allow a successor railroad corporation a 4-year carryover in order to continue the prior treatment under the act of July 15, 1947.

Section 206. Amortization deduction for grain-storage facilities

A critical shortage of facilities for storing grain has developed throughout the Nation during the past several years. This shortage has been felt particularly by producers of such grains as wheat and corn. In view of the situation which has arisen, it is believed necessary to provide an inducement for taxpayers to construct new grain-storage facilities, to increase the capacity of those already in existence, or to adapt existing construction to the storage of grain.

Under existing law, a taxpayer undertaking such expenditures would be allowed to recover his costs only through a deduction for depreciation taken over the period of the useful life of such new construction or adaptation. The bill adds section 124B to the code to allow such costs in the case of construction or adaptation after December 31, 1952, and before January 1, 1957, to be deducted, at the taxpayer's election, over the period of 60 months beginning either with the month following the month in which the facility was completed, or with the succeeding taxable year. In the event that the shortage of facilities for storing grain remains in a critical state through 1956, it would be appropriate to extend the date within which a taxpayer may construct such facilities and receive the benefits of this provision. The deduction is available only with respect to taxable years ending after the date of the enactment of this act. In the case of new construction the deduction is only available with respect to so much of the cost as is attributable to construction after December 31, 1952, and in the case of the alteration or adaptation of existing buildings only such cost as is properly attributable thereto after such date may be so deducted.

This amortization deduction is in lieu of that allowed for depreciation, but a taxpayer is allowed to deduct ordinary depreciation for that part of his costs of construction which would not qualify under this section, for example, by reason of not having been incurred subsequent to December 31, 1952. A taxpayer may elect to discontinue his amortization deductions under this section as of the beginning of any month specified in a notice filed with the Secretary before the beginning of such month and may thereafter be allowed the depreciation deduction. In the case of property held by one person for life with remainder to another, the life tenant is allowed the deduction under this section as if he were the absolute owner. Special rules are provided to allow the benefits of this deduction to a person acquiring a grain-storage facility to which this section is applicable. These rules are discussed in the technical part of this report relating to this provision.

This special amortization deduction is available to a farmer constructing a grain-storage facility. The statute defines a grain-storage facility as a corncrib, grain bin, or grain elevator, or any similar structure primarily suited for the storage of grain, which is intended by the taxpayer at the time of his election to be used for the storage of grain produced by him. The deduction is also available to any person who constructs any public grain warehouse permanently equipped for handling grain. Under the definition of a grain-storage facility the special amortization deduction is not allowed to persons who store only grain purchased for consumption in their business. For example, persons engaged in the milling of flour who construct storage facilities for purchased grain used in such processing would not be allowed to deduct the cost of any facilities under this provision.

Section 207. Exclusion of certain transfers taking effect at death

The bill amends the estate-tax provisions of the code relating to certain transfers of property with retention of the income for life by the transferor. In 1930 the Supreme Court held that property so transferred should not be included in the taxable estate of the transferor. *May* v. *Heiner* (281 U. S. 238). In response to this and re-

lated decisions, on March 3, 1931, Congress adopted a joint resolution providing that such transfers were includible (46 Stat. 1516), and the Revenue Act of 1932 substantially reenacted the provisions of this joint resolution. The joint resolution was interpreted in 1938 as being only prospective in its operation so as not to apply the transfers made prior to the date of its adoption. *Hassett* v. *Welch* (303 U. S. 303).

In the face of what had long been regarded as the settled interpretation of the then existing estate-tax provisions relating to these pre-1931 transfers with retention of a life estate by the transferor, the Supreme Court in 1949 in effect overruled its two earlier decisions and held that a transfer of property in 1924, with income retained for life by the transferor, required that the transferred property be included in the taxable estate of the transferor who died in 1939. *Commissioner* v. *Church* (335 U. S. 632).

Following the Church decision the Technical Changes Act of 1949 (as amended) provided that, in the case of life estates retained in transfers made on or before March 3, 1931 (and in some cases before June 7, 1932), the property would not be included in the decedent's gross estate solely by reason of retention of the life estate if the decedent died after the enactment of the code on February 10, 1939, and prior to January 1, 1951. As that act was passed by the Senate, it contained provisions which would have restored the estate-tax law to what it was prior to the Church opinion, that is, pre-1931 transfers would not be included in the gross estate of the decedent merely by reason of the retention of a life estate, regardless of when the decedent died. This provision was limited in conference, however, in the manner described above.

It is believed that the effect of the Church decision should be eliminated in all cases to which it was applicable. Prior legislation has already restored the estate-tax law to what it was before the Church decision in respect to all decedents dying after the enactment of the code and prior to January 1, 1951. The provision in the bill accomplishes this same result in respect of decedents dying on or after January 1, 1951.

The bill also provides relief for certain decedents where the death occurred prior to February 11, 1939, and whose estates were burdened with estate tax by reason of transfers made before March 4, 1931, involving the retention of a life estate, the reservation of a minute reversionary interest, or both. Since property transferred in this manner would not be included in the gross estate if the decedent died after February 10, 1939 (and before 1951), the bill would achieve a similar exemption for estates of decedents dying prior thereto However, it is not felt necessary to open the statute of limitations to any great extent in cases of decedents dying prior to February 11, 1939. It is only in cases in litigation at the time of the Church decision where there would appear to be any undue hardship. In these cases a refund or credit resulting from this provision will be allowed if a claim is filed within 1 year from the date of enactment of this act.

Section 208. Failure to relinquish a power in certain disability cases

Grantors of discretionary trusts created prior to January 1, 1939, who had retained certain powers which would result in the inclusion of the trust property in their gross estate for estate tax purposes were,

under section 1000 (e) of the code, permitted to relinquish such powers on or after January 1, 1940, and on or before December 31, 1947, free of gift tax. Grantors who were unable to relinquish their discretionary powers within the above period because of a mental disability should not be penalized. It is therefore provided that there shall not be included in a decedent's estate property previously transferred in trust as to which he retained certain discretionary powers if such decedent for at least 3 months prior to December 31, 1947, and continuing to the date of his death was under a mental disability such that he could not have relinquished such powers free of gift tax pursuant to section 1000 (e). The term "mental disability" is intended to encompass those cases in which the decedent during the requisite period prior to his death was, in fact, incapable because of his mental condition of relinquishing the power, whether or not he was legally declared mentally incompetent during all or any part of such period.

Section 209. Reversionary interests in case of life insurance

Section 404 (c) of the Revenue Act of 1942 (as amended by sec. 503 (a) of the Revenue Act of 1950) provided in the case of decedents dying after the date of its enactment (October 21, 1942) that the proceeds of life insurance policies should not be included in the decedent's estate by reason of premiums paid by the decedent prior to January 10, 1941, if the decedent at no time after that date retained an incident of ownership in such policy. In determining whether the decedent had such an "incident of ownership" after January 10, 1941, there was to be taken into account only those reversionary interests exceeding 5 percent of the value of the policy and arising other than by operation of law. It is believed that similar treatment should be extended in the case of decedents dying after January 10, 1941, and before October 22, 1942. Such decedents will be deemed to have an incident of ownership in insurance policies by reason of a reversionary interest held after January 10, 1941, only if such reversionary interest exceeded 5 percent of the value of the policy and arose by the express terms of the policy or other instrument and not by operation of law.

Section 210. Marital deduction in certain cases where decedent died before April 3, 1948

The provisions of this section relate to the marital deduction for estate-tax purposes. Attention has been called to certain situations where a decedent died after December 31, 1947, but prior to the date of the enactment of the Revenue Act of 1948, which allowed a marital deduction for estate-tax purposes. Consequently, while the act applied to such cases, estates of decedents dying within this short period from January 1, 1948, to the date of its enactment on April 2, 1948, were unable to secure the benefit of its provisions in some cases because the will of the decedent was not in accord with certain technical requirements of the act. If the decedent had been alive after the enactment of the Revenue Act of 1948, his will would undoubtedly have been rewritten to conform to the provisions of the act. Thus, under the act, property subject to a power of appointment in order to be taken into account for purposes of the marital deduction must meet the requirements of section 812 (e) (1) (F) of

the Internal Revenue Code. This section requires the interest in property passing from the decedent under a power of appointment to be in trust and the power to be unlimited and exercisable by the surviving spouse at all events. Cases have arisen where the power granted to the surviving spouse was not in trust and was confined to a power in the surviving spouse to use and consume such portion of the property as the surviving spouse may need or desire for her (or his) comfortable support or maintenance. In the case of a decedent dying after December 31, 1947, and prior to April 3, 1948, a power of this broad application should be considered as sufficient to permit the marital deduction of property subject to such power and the bill so provides. The section is only applicable if the surviving spouse files with the Secretary of the Treasury within 1 year after the date of the enactment of this act an election to take the benefits of the section. If such an election is made the property subject to such power shall be considered as property as to which the surviving spouse had a general power of appointment created on the date of the decedent's death, exercisable by deed or by will. Thus a reliquishment of such power by the surviving spouse during her lifetime will result in a taxable gift and if such power is not relinquished during the lifetime of the surviving spouse, the property subject to such power will be considered as part of the estate of such surviving spouse for estate-tax purposes.

Section 211. Mitigation of effect of statute of limitations

Section 3801 of the code allows either the taxpayer or the Commissioner to correct an improper tax result in certain cases where such action would otherwise be prevented by the running of the statute of limitations. This is possible by reason of the allowance under that section of an additional period of time beyond the period of limitations which would ordinarily be applicable. One of the principles of the present statute is to preclude any adjustment unless the hardship results from the maintenance of an inconsistent position by either the taxpayer or the Commissioner.

The statute operates effectively in cases to which it is directed, but tax inequities, the correction of which is prevented by the running of the period of limitations, may exist without regard to whether or not the position maintained by either party is inconsistent. A taxpayer may be disallowed a deduction or credit to which he is entitled in another taxable year or to which a related taxpayer may be entitled. Similarly, the Commissioner may have included an item in income for a taxable year different from the year for which such item should have been included, or the Commissioner may have included the item in the income of a related taxpayer.

Under present law, the errors described may not be corrected if discovered after the expiration of the period of limitation in respect to the correct year of the taxpayer or of the proper taxpayer. The bill includes provisions amending section 3801 in order to open the statute of limitations in such cases. Where a taxpayer claims a deduction or credit for a taxable year which is later determined to be the incorrect taxable year, or which is determined properly to belong to a related taxpayer, the amendment would permit a proper adjustment. However, the taxpayer is entitled to the benefits of this provision only if a credit or refund of the overpayment attributable

to the deduction or credit for the correct year or to the related taxpayer was not barred at the time the taxpayer formally asserted that he should have received such credit or refund in the year disallowed.

Similarly, the Commissioner would be allowed to make assessment of tax with respect to the proper taxable year, if at the time he formally asserted that an item was includible in income for a taxable year, later determined to be the incorrect year, he could have made a proper assessment of tax for the correct year. An opportunity to make a proper assessment would also be extended to the Commissioner under similar circumstances in the case of the related taxpayer.

The provisions added by the bill apply only where the determination relating to the disallowance of the deduction or credit, or the exclusion of the items from gross income, as the case may be, became final after June 30, 1952. Under your committee's bill the provision will not apply if the determination became final prior to June 1, 1952.

In the opinion of the committee it is necessary to dispense with requirements of subsection 4 of rule XXIX of the Standing Rules of the Senate to expedite the business of the Senate.

○

Calendar No. 628

83D CONGRESS
1ST SESSION

H. R. 6426

[Report No. 685]

IN THE SENATE OF THE UNITED STATES

JULY 23 (legislative day, JULY 6), 1953
Read twice and referred to the Committee on Finance

JULY 28 (legislative day, JULY 27), 1953
Reported by Mr. MILLIKIN, with amendments

[Omit the part struck through and insert the part printed in italic]

AN ACT

To amend the Internal Revenue Code to extend the time during which certain provisions relating to income and estate taxes shall apply, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) SHORT TITLE.—This Act, divided into titles and sections according to the following table of contents, may be cited as the "Technical Changes Act of 1953":

TABLE OF CONTENTS

TABLE OF CONTENTS—Continued

(b) ACT AMENDATORY OF INTERNAL REVENUE CODE.—Except as otherwise expressly provided, wherever in this Act an amendment or repeal is expressed in terms of an amendment to or repeal of a chapter, subchapter, title, supplement, section, subsection, subdivision, paragraph, subparagraph, or clause, the reference shall be considered to be made to a provision of the Internal Revenue Code.

(c) MEANING OF TERMS USED.—Except as otherwise expressly provided, terms used in this Act shall have the same meaning as when used in the Internal Revenue Code:

TITLE I—EXTENSION PROVISIONS

SEC. 101. ELECTION AS TO RECOGNITION OF GAIN IN CERTAIN CORPORATE LIQUIDATIONS.

(a) AMENDMENT OF SECTION 112 (b) (7).—Section 112 (b) (7) (relating to recognition of gain in certain corporate liquidations) is hereby amended by striking out "1951 or 1952" in subparagraph (A) (ii) and inserting in lieu thereof "1951, 1952, or 1953".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to taxable years ending after December 31, 1952.

SEC. 102. EXTENSION OF TIME TO MAKE ELECTION IN RESPECT OF EXCESSIVE DEPRECIATION ALLOWED FOR PERIODS BEFORE 1952.

(a) AMENDMENT OF SECTION 113 (d).—So much of section 113 (d) (relating to election in respect of depreciation, etc., allowed before 1952) as follows the first sentence thereof is hereby amended to read as follows: "Such an election shall be made in such manner as the Secretary may by regulations prescribe and shall be irrevocable when made, except that an election made on or before December 31,

1952, may be revoked at any time before January 1, 1955. A revocation of an election shall be made in such manner as the Secretary may by regulations prescribe, and no election may be made by any person after he has so revoked an election. The election shall apply in respect of all property held by the person making the election at any time on or before December 31, 1952, and in respect of all periods since February 28, 1913, and before January 1, 1952, during which such person held such property or for which adjustments must be made under subsection (b) (2). An election or a revocation of an election by a transferor, donor, or grantor made after the date of the transfer, gift, or grant of property shall not affect the basis of such property in the hands of the transferee, donee, or grantee. No election may be made under this subsection after December 31, 1954."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective as if included in the amendment made by section 2 of Public Law 539, Eighty-second Congress, at the time of its enactment.

SEC. 103. EXTENSION OF TIME FOR MAKING ELECTION WITH RESPECT TO WAR-LOSS RECOVERIES.

Section 127 (c) (5) (relating to election with respect to war-loss recoveries) is hereby amended by striking out

"December 31, 1952" and inserting in lieu thereof "December 31, 1953".

SEC. 104. EXTENSION OF PERIOD OF ABATEMENT OF INCOME TAXES OF MEMBERS OF ARMED FORCES UPON DEATH.

Section 154 (relating to income taxes of members of Armed Forces on death) is hereby amended by striking out "January 1, 1954" and inserting in lieu thereof "January 1, 1955".

SEC. 105. EXTENSION OF TEMPORARY PROVISIONS RELATING TO LIFE INSURANCE COMPANIES.

(a) TAX FOR 1953.—Sections 201 (a) (1) (relating to imposition of tax on life insurance companies), 203A (relating to 1951 and 1952 adjusted normal-tax net income of life insurance companies), and 433 (a) (1) (H) (relating to excess profits net income of life insurance companies) are each hereby amended by striking out "1951 and 1952" wherever appearing therein and inserting in lieu thereof "1953".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply only to taxable years beginning in 1953. The application of the amendment to section 201 (f) (relating to disallowance of double deductions) made by

section 336 (c) (2) of the Revenue Act of 1951 is hereby extended to taxable years beginning after December 31, 1952.

SEC. 106. EXTENSION OF PERIOD FOR EXEMPTION FROM ADDITIONAL ESTATE TAX OF MEMBERS OF ARMED FORCES UPON DEATH.

Section 939 (b) (relating to the tax treatment of estates of certain members of the Armed Forces) is hereby amended by striking out "JANUARY 1, 1954" and inserting in lieu thereof "JANUARY 1, 1955", and by striking out "January 1, 1954" and inserting in lieu thereof "January 1, 1955".

TITLE II—MISCELLANEOUS

SEC. 201. VENUE OF ACTIONS FOR VIOLATIONS OF ACT OF OCTOBER 19, 1949.

(a) AMENDMENT OF ACT.—Section 2 of the Act entitled "An Act to assist States in collecting sales and use taxes on cigarettes", approved October 19, 1949 (15 U. S. C., sec. 376), is hereby amended by striking out "forward to" and inserting in lieu thereof "file with".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply only in respect of memoranda or copies of invoices covering shipments made during the calendar month in which this Act is enacted and subsequent calendar months.

SEC. 202. DEDUCTION OF CERTAIN UNPAID EXPENSES AND INTEREST.

(a) AMENDMENT OF SECTION 24 (c).—Paragraph (1) of section 24 (c) (relating to disallowance of certain deductions for expenses incurred and interest accrued) is hereby amended to read as follows:

"(1) If within the period consisting of the taxable year of the taxpayer and two and one-half months after the close thereof (A) such expenses or interest are not paid, and (B) the amount thereof is not includible in the gross income of the person to whom the payment is to be made; and".

(b) EFFECTIVE DATE.—

(1) Except as otherwise provided in paragraph (2), the amendment made by subsection (a) shall apply only with respect to taxable years beginning after December 31, 1950.

(2) At the election of a taxpayer (hereinafter in this paragraph referred to as the "payor") made within one year after the date of the enactment of this Act, the amendment made by subsection (a) shall also apply with respect to such taxable years of the payor beginning after December 31, 1945, and before January 1, 1951, as are specified by the payor in making such election. Such election for any

taxable year shall not be valid as to any amount unless, at or before the time when such election is filed—

(A) the person (hereinafter in this paragraph referred to as the "payee") to whom such amount was payable included such amount in gross income for his taxable year for which such amount was includible in gross income, or

(B) the payee files a written consent to the assessment and collection of any deficiency and interest resulting from the payee's failure to include such amount in gross income for such taxable year, or

(C) the payor pays an amount equal to the deficiency and interest which would be payable by the payee pursuant to subparagraph (B) if he filed such consent. (Any amount paid under this subparagraph shall be assessed, notwithstanding any law or rule of law to the contrary, as an addition to the tax of the payor for the year for which the election is filed.)

The periods of limitation provided in sections 275 and 276 of the Internal Revenue Code on the making of an assessment and the beginning of distraint or a proceeding in court for collection shall, with respect to any deficiency and interest thereon resulting from any consent filed pursuant to subparagraph (B), include one year immediately following the

date such consent is filed, and such assessment and collection may be made notwithstanding any provision of law or any rule of law which otherwise would prevent such assessment and collection. If an election by a payor should be filed for a taxable year of the payor for which allowance of credit or refund of an overpayment is barred (at the time of such filing) by any law or rule of law, any consent filed by the payee in respect of any amount which represents expenses incurred or interest accrued by the payor for such year shall be void. If a consent requires the inclusion in the gross income of the payee for any taxable year of an amount which was erroneously included in the gross income of the payee for another taxable year and, on the date the consent is filed, correction of the effect of the error is prevented by the operation of any provision of the internal-revenue laws other than section 3761 of the Internal Revenue Code (relating to compromises), then the effect of the error shall be corrected in accordance with section 3801 of the Internal Revenue Code as if the consent were a determination under such section 3801 in which there is adopted a position maintained by the Secretary of the Treasury. The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out the provisions of this paragraph.

SEC. 203. BASIS OF CERTAIN PROPERTY TRANSFERRED IN TRUST.

(a) AMENDMENT OF SECTION 113 (a) (5).—The second sentence of section 113 (a) (5) (relating to the basis of property transmitted at death) is hereby amended by inserting immediately after the words "revoke the trust" the following: "or to make any change in the enjoyment thereof through the exercise of a power to alter, amend, or terminate the trust".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply (1) only in the case of property transferred by grantors dying after December 31, 1951, and (2) only with respect to taxable years ending after December 31, 1951.

SEC. 204. EARNED INCOME FROM SOURCES WITHOUT THE UNITED STATES.

~~(a) AMENDMENT OF SECTION 116 (a) (2).—Section 116 (a) (2) (relating to exclusion from gross income of earned income from sources without the United States) is hereby amended—~~

~~(1) by inserting "on or before April 14, 1953," after "amounts received";~~

~~(2) by striking out "such period" the second place it appears and inserting in lieu thereof "such period of 18 consecutive months"; and~~

~~(3) by adding at the end thereof the following new sentence: "For the purpose of applying section 107 to any amount of earned income described in this paragraph which is received after April 14, 1953, this paragraph shall not apply in computing the tax attributable to any portion of such amount deemed for the purpose of section 107 to have been received on or before April 14, 1953."~~

(a) AMENDMENT OF SECTION 116 (a) (2).—Section 116 (a) (2) (relating to exclusion from gross income of earned income from sources without the United States) is hereby amended by adding at the end thereof the following new sentences:

"If the 18 month period includes the entire taxable year, the amount excluded under this paragraph for such taxable year shall not exceed $20,000. If the 18 month period does not include the entire taxable year, the amount excluded under this paragraph for such taxable year shall not exceed an amount which bears the same ratio to $20,000 as the number of days in the part of the taxable year within the 18 month period bears to the total number of days in such year."

(b) WITHHOLDING OF TAX ON WAGES OF CITIZENS OUTSIDE THE UNITED STATES.—So much of section 1621 (a) (8) (relating to the definition of wages) as precedes

subparagraph (B) thereof is hereby amended to read as follows:

"(8) (A) for services for an employer (other than the United States or any agency thereof) (i) performed by a citizen of the United States if, at the time of the payment of such remuneration, it is reasonable to believe that such remuneration will be excluded from gross income under section 116 (a), or (ii) performed in a foreign country by such a citizen if, at the time of the payment of such remuneration, the employer is required by the law of any foreign country to withhold income tax upon such remuneration, or".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to taxable years ending after ~~April 11, 1953~~ *December 31, 1952, but only to amounts received after such date. In the case of any taxable year beginning in 1952 and ending in 1953 the exclusion of amounts received after December 31, 1952 shall not exceed an amount which is the same proportion of $20,000 as the number of days in such taxable year after December 31, 1952 is of 365 days.* The amendments made by subsections (a) and (b) shall not affect the liability of any employer to deduct and withhold the tax imposed by section 1622 in the case of any remuneration paid be-

fore the first day of the first month beginning more than ten days after the date of the enactment of this Act.

SEC. 205. NET OPERATING LOSS CARRY-OVERS.

(a) AMENDMENT OF SECTION 122 (b) (2).—

(1) Section 122 (b) (2) (relating to net operating loss carry-over) is hereby amended by adding after subparagraph (D) the following new subparagraphs:

"(E) Loss For Taxable Years of Corporations Beginning In 1947 And Ending In 1948.—If a corporation (other than a corporation which commenced business after December 31, 1945) has a net operating loss for a taxable year beginning in 1947 and ending in 1948, subparagraph (C) shall apply as if the taxable year began after December 31, 1947; except that the net operating loss carry-over for the third succeeding taxable year shall not exceed that amount which bears the same ratio to the net operating loss as the number of days in the taxable year after December 31, 1947, bears to the total number of days in the taxable year.

"(F) Loss in Case of Corporations Whose First Taxable Year Began in 1949 and Ended in 1950.—If the first taxable year of a corporation began in 1949 and ended in 1950, and if the corpora-

tion had a net operating loss for such first taxable year, there shall be a net operating loss carry-over for the fourth and fifth succeeding taxable years. The amount of such carry-over shall be determined in accordance with the first sentence of subparagraph (B); except that—

"(i) such carry-over for the fourth succeeding taxable year shall not exceed so much of such net operating loss as is allocable to 1950, and

"(ii) such carry-over for the fifth succeeding taxable year shall not exceed the amount by which the carry-over for the fourth succeeding taxable year (as limited by clause (i) of this sentence) exceeds the net income for the fourth succeeding taxable year computed as provided in clauses (i) and (ii) of the first sentence of subparagraph (B).

For the purposes of the preceding sentence, the portion of the net operating loss which is allocable to 1950 shall be an amount which bears the same ratio to such loss as the number of days in the taxable year after December 31, 1949, bears to the total number of days in the taxable year."

(2) Subparagraph (A) of section 122 (b) (2) is hereby amended by striking out "subparagraph (D)," and inserting in lieu thereof "subparagraphs (D) and (E),".

(3) The amendment made by paragraph (2), and subparagraph (E) of section 122 (b) (2) of the Internal Revenue Code as added by paragraph (1), shall apply with respect to taxable years ending after December 31, 1947. Subparagraph (F) of section 122 (b) (2) of the Internal Revenue Code as added by paragraph (1) shall apply with respect to taxable years ending after December 31, 1949.

(b) SUCCESSOR RAILROAD CORPORATIONS.—

(1) Subsection (c) of the first section of the Act of July 15, 1947 (61 Stat. 324), relating to allowance to successor railroad corporations of benefits of certain carry-overs of predecessor corporations, is hereby amended to read as follows:

"(c) For the purposes of this section, if the period, beginning on the first day of the taxable year of the predecessor corporation in which the acquisition occurred and ending on the last day of the taxable year of the successor corporation in which the acquisition occurred, is not more than twelve months, then—

"(1) if such net operating loss or unused excess profits credit was for a taxable year beginning before January 1, 1948, the number of succeeding taxable years to which such net operating loss or unused excess profits credit is a carry-over shall be three (instead of two, as respectively provided in section 122 (b) (2) (A) and section 710 (c) (3) (B) of such code); and

"(2) if such net operating loss was for a taxable year beginning after December 31, 1947, and before January 1, 1950, the number of succeeding taxable years to which such net operating loss is a carry-over shall be four (instead of three, as provided in section 122 (b) (2) (C) of such code);

and such regulations shall prescribe (as nearly as possible in the manner respectively prescribed in sections 122 (b) (2) and 710 (c) (3) (B) of such code with respect to a net operating loss or an unused excess profits credit, as the case may be, for such taxable year) the amount to be carried over to the last of such succeeding taxable years."

(2) The amendment made by paragraph (1) shall be effective as if included in such Act of July 15, 1947, at the time of its enactment.

SEC. 206. AMORTIZATION DEDUCTION FOR GRAIN STORAGE FACILITIES.

(a) ALLOWANCE OF DEDUCTION.—Supplement B of subchapter C of chapter 1 is hereby amended by inserting after section 124A the following new section:

"SEC. 124B. AMORTIZATION DEDUCTION FOR GRAIN STORAGE FACILITIES.

"(a) ALLOWANCE OF DEDUCTION.—

"(1) ORIGINAL OWNER.—Any person who constructs, reconstructs, or erects a grain storage facility (as defined in subsection (d)) shall, at his election, be entitled to a deduction with respect to the amortization of the adjusted basis (for determining gain) of such facility based on a period of sixty months. The sixty-month period shall begin as to any such facility, at the election of the taxpayer, with the month following the month in which the facility was completed, or with the succeeding taxable year.

"(2) SUBSEQUENT OWNERS.—Any person who acquires a grain storage facility from a taxpayer who—

"(A) elected under subsection (b) to take the

amortization deduction provided by this subsection with respect to such facility, and

"(B) did not discontinue the amortization deduction pursuant to subsection (c).

shall, at his election, be entitled to a deduction with respect to the adjusted basis (determined under subsection (e) (2)) of such facility based on the period, if any, remaining (at the time of acquisition) in the sixty-month period elected under subsection (b) by the person who constructed, reconstructed, or erected such facility.

"(3) AMOUNT OF DEDUCTION.—The amortization deduction provided in paragraphs (1) and (2) shall be an amount, with respect to each month of the amortization period within the taxable year, equal to the adjusted basis of the facility at the end of such month, divided by the number of months (including the month for which the deduction is computed) remaining in the period. Such adjusted basis at the end of the month shall be computed without regard to the amortization deduction for such month. The amortization deduction above provided with respect to any month shall be in lieu of the deduction with respect to such facility for such month provided by section 23 (l) (relating to exhaustion, wear and tear, and obsolescence).

"(b) ELECTION OF AMORTIZATION.—The election of the taxpayer under subsection (a) (1) to take the amortization deduction and to begin the sixty-month period with the month following the month in which the facility was completed shall be made only by a statement to that effect in the return for the taxable year in which the facility was completed. The election of the taxpayer under subsection (a) (1) to take the amortization deduction and to begin such period with the taxable year succeeding such year shall be made only by a statement to that effect in the return for such succeeding taxable year. The election of the taxpayer under subsection (a) (2) to take the amortization deduction shall be made only by a statement to that effect in the return for the taxable year in which the facility was acquired. Notwithstanding the preceding three sentences, the election of the taxpayer under subsection (a) (1) or (2) may be made, under such regulations as the Secretary may prescribe, before the time prescribed in the applicable sentence.

"(c) TERMINATION OF AMORTIZATION DEDUCTION.—A taxpayer which has elected under subsection (b) to take the amortization deduction provided in subsection (a) may, at any time after making such election, discontinue the amortization deduction with respect to the remainder of the

amortization period, such discontinuance to begin as of the beginning of any month specified by the taxpayer in a notice in writing filed with the Secretary before the beginning of such month. The deduction provided under section 23 (l) shall be allowed, beginning with the first month as to which the amortization deduction is not applicable, and the taxpayer shall not be entitled to any further amortization deduction with respect to such facility.

"(d) DEFINITION OF GRAIN STORAGE FACILITY.—For the purposes of this section, the term 'grain storage facility' means—

"(1) any corn crib, grain bin, or grain elevator, or any similar structure suitable primarily for the storage of grain, which crib, bin, elevator, or structure is intended by the taxpayer at the time of his election to be used for the storage of grain produced by him (or, if the election is made by a partnership, produced by the members thereof); and

"(2) any public grain warehouse permanently equipped for receiving, elevating, conditioning, and loading out grain,

the construction, reconstruction, or erection of which was completed after December 31, 1952, and on or before December 31, 1956. If any structure described in clause

(1) or (2) of the preceding sentence is altered or remodeled so as to increase its capacity for the storage of grain, or if any structure is converted, through alteration or remodelling, into a structure so described, and if such alteration or remodelling was completed after December 31, 1952, and on or before December 31, 1956, such alteration or remodelling shall be treated as the construction of a grain storage facility. The term 'grain storage facility' shall include only property of a character which is subject to the allowance for depreciation provided in section 23 (l). The term 'grain storage facility' shall not include any facility any part of which is an emergency facility within the meaning of section 124A.

"(e) DETERMINATION OF ADJUSTED BASIS.—

"(1) ORIGINAL OWNERS.—For the purpose of subsection (a) (1)—

"(A) in determining the adjusted basis of any grain storage facility, the construction, reconstruction, or erection of which was begun before January 1, 1953, there shall be included only so much of the amount of the adjusted basis (computed without regard to this subsection) as is properly attributable to such construction, reconstruction, or erection after December 31, 1952, and

"(B) in determining the adjusted basis of any

facility which is a grain storage facility within the meaning of the second sentence of subsection (d), there shall be included only so much of the amount otherwise included in such basis as is properly attributable to the alteration or remodeling.

If any existing grain storage facility as defined in the first sentence of subsection (d) is altered or remodeled as provided in the second sentence of subsection (d), the expenditures for such remodeling or alteration shall not be applied in adjustment of the basis of such existing facility but a separate basis shall be computed in respect of such facility as if the part altered or remodeled were a new and separate grain storage facility.

"(2) SUBSEQUENT OWNERS.—For the purpose of subsection (a) (2), the adjusted basis of any grain storage facility shall be whichever of the following amounts is the smaller: (A) The basis (unadjusted) of such facility for the purposes of this section in the hands of the transferor, donor, or grantor, adjusted as if such facility in the hands of the taxpayer had a substitute basis within the meaning of section 113 (b) (2) (A), or (B) so much of the adjusted basis (for determining gain) of the facility in the hands of the tax-

payer (as computed without regard to this subsection) as is properly attributable to construction, reconstruction, or erection after December 31, 1952.

"(f) DEPRECIATION DEDUCTION.—If the adjusted basis of the grain storage facility (computed without regard to subsection (e)) exceeds the adjusted basis computed under subsection (e), the deduction provided by section 23 (l) shall, despite the provisions of subsection (a) (3) of this section, be allowed with respect to such grain storage facility as if the adjusted basis for the purpose of such deduction were an amount equal to the amount of such excess.

"(g) LIFE TENANT AND REMAINDERMAN.—In the case of property held by one person for life with remainder to another person, the amortization deduction provided in subsection (a) shall be computed as if the life tenant were the absolute owner of the property and shall be allowed to the life tenant."

(b) TECHNICAL AMENDMENTS.—

(1) Section 23 (t) is hereby amended to read as follows:

"(t) AMORTIZATION DEDUCTION.—The deduction for amortization provided in sections 124, 124A, and 124B."

(2) Section 172 is hereby amended by striking out "of emergency facilities".

(3) Section 190 is hereby amended by inserting after "emergency facilities" the following: "or grain storage facilities".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply only with respect to taxable years ending after the date of the enactment of this Act.

SEC. 207. EXCLUSION OF CERTAIN TRANSFERS TAKING EFFECT AT DEATH.

(a) DECEDENTS DYING AFTER FEBRUARY 10, 1939.—Paragraph (1) of section 811 (c) (relating to the inclusion of certain interests in the decedent's gross estate) is hereby amended by inserting after subparagraph (C) the following:

"Subparagraph (B) shall not apply to a transfer made before March 4, 1931; nor shall subparagraph (B) apply to a transfer made after March 3, 1931, and before June 7, 1932, unless the property transferred would have been includible in the decedent's gross estate by reason of the amendatory language of the joint resolution of March 3, 1931 (46 Stat. 1516)."

(b) DECEDENTS DYING BEFORE FEBRUARY 11, 1939.—For the purposes of section 302 (c) of the Revenue Act of 1926, as amended, an interest of a decedent shall not be included in his gross estate as intended to take effect in

possession or enjoyment at or after his death unless it would have been includible as such a transfer under section 811 (c) (2) of the Internal Revenue Code, as amended by section 7 of Public Law 378, Eighty-first Congress, approved October 25, 1949 (63 Stat. 891), had such section 811 (c) (2), as so amended, applied to the estate of such decedent. No refund or credit of any overpayment resulting from the application of this subsection shall be allowed or made if prevented by the operation of the statute of limitations or by any other law or rule of law; except that if the determination of the Federal estate tax liability in respect of the estate of any decedent dying before February 11, 1939, was pending on January 17, 1949, in the Tax Court of the United States or in any other court of competent jurisdiction, or if a decision of the Tax Court of the United States or such other court determining such estate tax liability did not become final until on or after January 17, 1949, then refund or credit of any overpayment resulting from the application of this subsection may, nevertheless, be made or allowed if claim therefor is filed within one year from the date of the enactment of this Act, notwithstanding section 319 (a) of the Revenue Act of 1926 or any other law or rule of law which would otherwise prevent the allowance of such refund or credit.

(c) INTEREST.—No interest shall be allowed or paid on any overpayment resulting from the application of this section with respect to any payment made before the date of the enactment of this Act.

(d) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply only with respect to estates of decedents dying after February 10, 1939. Subsection (b) shall apply only with respect to estates of decedents dying before February 11, 1939.

SEC. 208. FAILURE TO RELINQUISH A POWER IN CERTAIN DISABILITY CASES.

(a) AMENDMENT OF SECTION 811 (d).—Section 811 (d) (relating to revocable transfers) is hereby amended by inserting after paragraph (3) thereof the following new paragraph:

"(4) EFFECT OF DISABILITY IN CERTAIN CASES.—For the purposes of this subsection, in the case of a decedent who was (for a continuous period beginning not less than three months before December 31, 1947, and ending with his death) under a mental disability to relinquish a power, the term 'power' shall not include a power the relinquishment of which on or after January 1, 1940, and on or before December 31, 1947,

would, by reason of section 1000 (e), be deemed not to be a transfer of property for the purposes of chapter 4."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply only with respect to estates of decedents dying after December 31, 1950.

SEC. 209. REVERSIONARY INTERESTS IN CASE OF LIFE INSURANCE.

(a) DECEDENTS DYING AFTER JANUARY 10, 1941, AND BEFORE OCTOBER 22, 1942.—Effective with respect to estates of decedents dying after January 10, 1941, and before October 22, 1942, the proceeds of life insurance receivable by beneficiaries other than the executor shall not be included in the gross estate of a decedent under section 811 (g) of the Internal Revenue Code unless such proceeds would have been includible under section 404 (c) of the Revenue Act of 1942 (as amended by section 503 (a) of the Revenue Act of 1950) had such section 404 (c), as so amended, applied to such estate.

(b) INTEREST.—No interest shall be allowed or paid on any overpayment resulting from the application of subsection (a) with respect to any payment made before the date of the enactment of this Act.

SEC. 210. MARITAL DEDUCTION IN CERTAIN CASES WHERE DECEDENT DIED BEFORE APRIL 3, 1948.

(a) IN GENERAL.—In the case of an interest in property passing by will from the decedent, if the surviving spouse is entitled for life to all the income from such property, payable annually or at more frequent intervals, with power in the surviving spouse to use and consume such portion of the property as the surviving spouse may need or desire for her (or his) comfortable support and maintenance, and with no power in any person other than the surviving spouse to appoint any part of such property, then—

(1) the interest so passing shall, for the purposes of subparagraph (A) of section 812 (e) (1) of the Internal Revenue Code, be considered as passing to the surviving spouse; and

(2) no part of the interest so passing shall, for the purposes of subparagraph (B) (i) of section 812 (e) (1) of the Internal Revenue Code, be considered as passing to any person other than the surviving spouse.

Nothing in this subsection shall be construed to permit the same items to be twice deducted.

(b) ELECTION.—The provisions of subsection (a) shall apply only if the surviving spouse files an election under this section with the Secretary within one year after the date of the enactment of this Act under such regulations as

the Secretary shall prescribe. If such election is so filed, the property subject to such power shall, notwithstanding any other provision of law, be considered for purposes of chapters 3 and 4 of the Internal Revenue Code as property as to which the surviving spouse had a general power of appointment exercisable by deed or will. If the surviving spouse has made an election pursuant to this section, the periods of limitation provided in chapters 3 and 4 of the Internal Revenue Code on the making of an assessment and the beginning of distraint or a proceeding in court for collection shall, with respect to any deficiency and interest thereon resulting from such election, include one year immediately following the date such election is filed, and such assessment and collection may be made notwithstanding any provision of law or any rule of law which otherwise would prevent such assessment and collection.

(c) INTEREST.—No interest shall be allowed or paid on any overpayment resulting from the application of this section.

(d) EFFECTIVE DATE.—This section shall apply only with respect to estates of decedents dying after December 31, 1947, and on or before the date of the enactment of the Revenue Act of 1948. If refund or credit of any overpayment resulting from the application of subsections (a) and (b) is prevented on the date of the enactment of this Act,

or within one year from such date, by the operation of any law or rule of law (other than section 3760 of the Internal Revenue Code, relating to closing agreements, and other than section 3761 of such code, relating to compromises), refund or credit of such overpayment may, nevertheless, be made or allowed if claim therefor is filed within one year from the date of the enactment of this Act.

SEC. 211. MITIGATION OF EFFECT OF STATUTE OF LIMITATIONS.

(a) AMENDMENT OF SECTION 3801 (b).—Section 3801 (b) (relating to circumstances of adjustment) is hereby amended by inserting after paragraph (5) the following new paragraphs:

"(6) Disallows a deduction or credit which should have been allowed to, but was not allowed to, the taxpayer for another taxable year, or to a related taxpayer; but this paragraph shall apply only if (A) the determination became final on or after ~~July~~ *June* 1, 1952, and (B) credit or refund of the overpayment attributable to the deduction or credit which should have been allowed to the taxpayer or related taxpayer was not barred, by any law or rule of law, at or after the time the taxpayer first maintained before the Secretary or the Tax Court of the United States, in writing, that he

was entitled to such deduction or credit in the taxable year for which it is so disallowed; or

"(7) Requires the exclusion from gross income of an item which is includible in the gross income of the taxpayer for another taxable year or in the gross income of a related taxpayer; but this paragraph shall apply only if (A) the determination became final on or after ~~July~~ *June* 1, 1952, and (B) assessment of deficiency under section 272 (a) by the Secretary for such other taxable year or against such related taxpayer was not barred, by any law or rule of law, at the time the Secretary first maintained in a notice of deficiency sent pursuant to section 272 (a) or before the Tax Court of the United States, that such item should be included in the gross income of the taxpayer for the taxable year to which the determination relates—".

(b) TECHNICAL AMENDMENTS.—

(1) Paragraph (5) of section 3801 (b) is hereby amended by striking out "transaction—" and inserting in lieu thereof "transaction; or".

(2) The second sentence of section 3801 (b) is hereby amended by striking out "Such" and inserting in lieu thereof "Except in cases described in paragraphs (6) and (7), such".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall be effective as if included in the Internal Revenue Code at the time of its enactment. In any case in which the determination referred to in paragraph (6) or (7) of section 3801 (b), as amended by subsection (a) of this section, became final before the date of the enactment of this Act, the one-year period described in section 3801 (c) shall be extended to include the one-year period beginning with the date of the enactment of this Act.

Passed the House of Representatives July 22, 1953.

Attest: LYLE O. SNADER,

Clerk.

Calendar No. 682

83D CONGRESS
1ST SESSION

H. R. 6426

[Report No. 685]

AN ACT

To amend the Internal Revenue Code to extend the time during which certain provisions relating to income and estate taxes shall apply, and for other purposes.

JULY 23 (legislative day, JULY 6), 1953
Read twice and referred to the Committee on Finance

JULY 28 (legislative day, JULY 27), 1953
Reported with amendments

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE
(For Department Staff Only)

Issued August 4, 1953
For actions of August 3, 1953
83rd-1st, No. 147

CONTENTS

HIGHLIGHTS: Both Houses completed congressional action on supplemental appropriation bill and bill for tax amortization of grain storage facilities. Senate completed congressional action on foreign-aid appropriation and trade-agreements bills. House completed congressional action on animal-disease and Alaska-forest-survey bills. Senate Agriculture Committee announced investigations. Both Houses adjourned sine die.

SENATE

1. FOREIGN-AID APPROPRIATION BILL, 1954. Agreed to the conference report on this bill, H. R. 6391 (pp. 11248-50, 11267, 11269, 11273-7). This bill will now be sent to the President.

2. TRADE AGREEMENTS. Agreed to the conference report on H. R. 5495, to extend the authority of the President to enter into reciprocal trade agreements (pp. 11280-1). This bill will now be sent to the President.

3. SUPPLEMENTAL APPROPRIATION BILL, 1954. Both Houses agreed to the conference report (second) on this bill, H. R. 6200 (pp. 11325-33, 11366-9). The bill will now be sent to the President.

4. STATE, JUSTICE, COMMERCE APPROPRIATION BILL, 1954. Receded from disagreement to a House amendment (regarding airports) to this bill, H. R. 4974 (pp. 11291-4). The bill will now be sent to the President.

5. EDUCATION. Both Houses agreed to the conference reports on H. R. 6049 and 6078, to aid school districts in federally affected areas (pp. 11317-25, 11369-74). These bills will now be sent to the President.

6. FOOD INSPECTION. Passed without amendment H. R. 5740, to restore factory-inspection authority to the Food and Drug Administration (pp. 11299-308, 11358-9, 11391). This bill will now be sent to the President.

7. TAXATION; GRAIN STORAGE. Passed as reported H. R. 6426, which provides, among other things, an income-tax deduction for amortization of farm storage facilties built in calendar year 1953 and in the 3 succeeding calendar years (pp. 11380, 11385-9). The House agreed to the Senate amendments (pp. 11360-1). This bill will now be sent to the President.

8. INVESTIGATIONS. The "Daily Digest" states that the Agriculture and Forestry Committee: "Agreed to hold field hearings in continuation of the investigation of feed wheat from Canada; tentatively agreed to conduct a followup inspection on the operations of the drought-relief program; and tentatively agreed to hold hearings in the West on grazing policies and land management of the national forests" (p. D838.)

9. PERSONNEL. Sen. Butler, Nebr., inserted a statement from a group of veterans favoring absolute power to dismiss 5% of Government employees (p. 11225).
Sen. Douglas spoke in defense of Government employees and recommended various proposals to improve their situation (p. 11237).

10. ELECTRIFICATION. Sen. Lehman inserted Gov. Dewey's testimony favoring State development of Niagara power (pp. 11240-3).
Sen. Johnston spoke in favor of public power development in the South (pp. 11380-5).
Sen. Morse spoke in favor of public power development, especially the Hells Canyon proposal (pp. 11398-415).

11. DEBT LIMIT. Sen. Byrd spoke against increasing the public debt limit (pp. 11244-7).

12. BANKING AND CURRENCY. Sen. Morse criticized the Administration's monetary and fiscal policies (pp. 11394-8).
Sen. Douglas discussed and inserted an analysis by Marriner S. Eccles of monetary and credit policies (pp. 11295-8).

13. TREATY POWERS. Sen. Bricker inserted an article by Felix Morley defending his resolution to limit treaty powers (pp. 11258-65).

HOUSE

14. ANIMAL DISEASES; FOREST SURVEY. Passed without amendment S. 2055, to authorize control and eradication of scrapie and blue-tongue in sheep and minor outbreaks of other animal diseases which may result in larger outbreaks (p. 11342), and S. 725, authorizing a survey of Alaska forest resources (pp. 11342-3). These bills will now be sent to the President.

15. RESEARCH. Passed without amendment S. 977, to provide an open-end appropriation authorization for the National Science Foundation (p. 11344). This bill will now be sent to the President.

ADJOURNMENT

16. Both Houses adjourned sine die and passed a joint resolution providing that the next regular session shall begin Wed., Jan. 6, 1954 (pp. 11366, 11235, 11392, 11363, 11321). Rep. Halleck stated, "So far as I can see there would be no new legislation coming up in a special session, if one is called, which would require action by the House" (p. 11353. All pending bills retain their present status, and action on them will be permissible next year without their being re-introduced.

the United States under this section shall be distributed to such public taxing units in the county where the property is located and in such manner as the State of Wyoming may prescribe."

And in line 21, to change the subsection letter from "(c)" to "(d)", so as to make the bill read:

Be it enacted, etc., That the act entitled "An act to establish a new Grand Teton National Park in the State of Wyoming, and for other purposes", approved September 14, 1950 (64 Stat. 849), is amended by adding at the end thereof the following new section:

"SEC. 10. (a) The State of Wyoming or any duly constituted taxing authority thereof, shall have the jurisdiction and power to levy taxes with respect to any hotel or public facility for lodging purposes erected by persons, firms, or corporations pursuant to an agreement with any department, establishment or agency of the United States, upon land embraced within Grand Teton National Park, together with all personal property appurtenant thereto or used in connection therewith.

"(b) In the event title to any property described in subsection (a) above is acquired by the United States by gift, donation, or purchase, payments in lieu of taxes lost as a result of such acquisition shall be made to the State of Wyoming for distribution to the county in which such property is located in accordance with the following schedule of payments: For the fiscal year in which such property may be acquired there shall be paid an amount equal to the full amount of annual taxes last assessed and levied on such property pursuant to the authority granted by this section, less any amount, to be determined by the Secretary of the Interior, which may have been paid on account of taxes for a period falling within such fiscal year. For each succeeding fiscal year, in perpetuity, there shall be paid an amount equal to the full amount of annual taxes last assessed and levied on such property: *Provided*, That no payments shall be made with respect to any such property that has been disposed of by the United States, or that has been demolished or destroyed, prior to the beginning of the fiscal year for which such payments would otherwise be made.

"(c) As soon as practicable after the end of each fiscal year, the amount then due for such fiscal year under subsection (b) above shall be computed and certified by the Secretary of the Interior, and shall be paid by the Secretary of the Treasury: *Provided*, That such amount shall not exceed that portion of the revenues received by the United States during such fiscal year from visitors to Grand Teton National Park and Yellowstone National Park which is in excess of the payments for such fiscal year required by section 5 of this act. Payments made to the State of Wyoming by the United States under this section shall be distributed to such public taxing units in the county where the property is located and in such manner as the State of Wyoming may prescribe.

(d) No person, firm, or corporation shall be relieved from liability for payment of, collection of, or accounting for any tax levied by the State of Wyoming, or by any duly constituted taxing authority therof, pursuant to authority contained in this section, on the ground that the property, with respect to which such tax is levied, is located in whole or in part within a Federal area; and such State or taxing authority shall have full jurisdiction and power to levy and collect such tax to the same extent and with the same effect as though such area was not a Federal area."

Mr. BARRETT. Mr. President, when the bill was before the Senate on Saturday last the distinguished senior Senator from West Virginia [Mr. KILGORE] objected to it until a further study of it could be made. This morning, the Whip for the minority, the distinguished senior Senator from Kentucky (Mr. CLEMENTS] and my colleague, the senior Senator from Wyoming [Mr. HUNT] and I discussed the matter with the senior Senator from West Virginia, and he has withdrawn his objection to the bill.

The bill was reported unanimously by the Committee on Interior and Insular Affairs. It had a favorable report from the Secretary of the Interior, and the only objection raised by the Bureau of the Budget was that the necessity for the legislation at this time was not evident.

Mr. KILGORE. Mr. President, this morning in the conference the Senator from Wyoming [Mr. BARRETT] had an entirely different description of the bill from that which was made on the floor of the Senate yesterday. Yesterday it was described as part of a Federal park. It now develops that it is a tract of land contributed by the Rockefeller Foundation, or a similar group, on which it is proposed to erect hotels and other structures.

My objection would not hold as to such an operation, because it is plainly taxable under the law. If the distinguished Senator from Wyoming will state for the RECORD, that what I have stated is the fact, as we agreed this morning, I shall withdraw my objection.

Mr. BARRETT. I may say to the Senator that I said then that the property belonged to private individuals or corporations and I can say now that the property in question belongs to the Jackson Hole Lodge and Transportation Company, and is privately owned by a private corporation and therefore subject to taxation. As I told the senior Senator from West Virginia this morning the Secretary of the Interior in the report makes the statement, and I quote:

So far as we are aware there is no intention to donate to the United States any of the existing or future facilities of this type within the park, and we have no present intention to acquire such properties.

Mr. KILGORE. Along that line, I have been unalterably opposed to taxation of Federal property in one State unless it is taxed everywhere else.

Yesterday the description of the property was so vague that it appeared to me to be straight-out taxation of property in a national park. For that reason I objected to the bill. The sole purpose of insisting that it be discussed on the floor was to get the legislative background of the bill. I am also informed by the Senator from Wyoming that the Public Park Service of the Department of the Interior has no idea of taking this land over at this time, and if they should take it over at a later date we could discuss the matter then. I do not know why the State of Wyoming has not gone ahead with taxing the property. But so that the State will have no scruples against it, I withdraw my objection.

Mr. HUNT. Mr. President, on behalf of my colleagues and myself, I wish to express our appreciation to the Senator from West Virginia [Mr. KILGORE] for withdrawing his objection.

I wish to say further further, Mr. President, that we in Wyoming feel highly complimented and very much pleased that the Rockefeller interests have come to Wyoming, to the Grand Teton Park, and there are building a lodge which will serve at very reasonable rates the great middle class of our people—the clerks, mechanics, schoolteachers, and others—who thus will be able to enjoy the marvelous beauties of that area and partake of the marvelous inspiration to be derived from that outstanding section of the United States.

So we are very grateful to the Senator from West Virginia for withdrawing his objection.

Mr. ELLENDER. Mr. President, will the Senator from Wyoming yield to me?

Mr. BARRETT. I yield.

Mr. ELLENDER. Am I correct in assuming that the property under consideration is not Government-owned?

Mr. BARRETT. That is true.

Mr. ELLENDER. The construction referred to is on property which is not owned by the Federal Government; is that correct?

Mr. BARRETT. I am certain that the land upon which the hotel will be constructed is deeded land. At any rate, the property is privately owned. I shall ask my colleague, the senior Senator from Wyoming, if that is not correct.

Mr. ELLENDER. If it is privately owned, why is it necessary for Wyoming to make application to Congress in this connection?

Mr. HUNT. Mr. President, if my colleague will yield to me——

Mr. BARRETT. I yield.

Mr. HUNT. I believe I can say to the distinguished Senator from Louisiana that Teton County is only 4 percent privately owned. Ninety-six percent of the county is owned by the Federal Government.

There has always been some fear—I do not share it—on the part of the County Commissioners of Teton County, who are making a very wonderful effort to survive on the taxes derived from only 4 percent of the county, that eventually the National Park Service might be made the owner of this wonderful new installation.

This measure has the purpose of protecting the tax income to the county and the State forever and a day.

Mr. KILGORE. However, the inn or hotel is constructed on privately owned property, is it not?

Mr. HUNT. That is absolutely correct.

Mr. KILGORE. In other words, the property is owned by the corporation, is it?

Mr. HUNT. Yes, by the Jackson Hole Preserve.

Mr. KILGORE. That is a nonprofit corporation, owned by the Rockefellers, I understand. So the lodge is built, is it

not, on land included within the 4 percent of the county which is privately owned, and not on land which is a part of the 96 percent of the county which is owned by the Federal Government? Is that correct?

Mr. HUNT. It is on a part of the 4 percent which is privately owned, but is on a part which is of practically no value until the installation is completed.

Mr. KILGORE. Nevertheless, it is on privately owned property, not on Government-owned property; is that correct?

Mr. HUNT. Yes.

The VICE PRESIDENT. The question is on agreeing to the amendments of the committee.

The amendments were agreed to.

The bill (S. 1706) was ordered to be engrossed for a third reading, read the third time, and passed.

INCOME AND STATE TAXES

Mr. KNOWLAND. Mr. President, the distinguished junior Senator from South Carolina [Mr. JOHNSTON] is prepared to speak. Before he speaks, and in order that one of the measures included within the previously announced list may be before the Senate, I now move that the Senate proceed to the consideration of House bill 6426, Calendar No. 682, amending the Internal Revenue Code so as to extend the time in which certain provisions relating to income and estate taxes shall apply.

The motion was agreed to; and the Senate proceeded to consider the bill (H. R. 6426) to amend the Internal Revenue Code to extend the time during which certain provisions relating to income and estate taxes shall apply, and for other purposes, which had been reported from the Committee on Finance with amendments.

FEDERAL POWER POLICY AND THE SOUTH

Mr. JOHNSTON of South Carolina. Mr. President, I rise to call the attention of the Senate to the great importance of warding off the attacks which would weaken the effectiveness of our Federal power policy. That policy has proved too important a key, in my opinion, to the economic expansion of the South, for us to allow such attacks to succeed.

The people of my region understand the importance of maintaining an alternative to monopoly in the vital field of electric power. They know the part which the Federal power program, in all its aspects, has played in ending the time when the south could be referred to as an economic problem. They will not look with favor on any action of Congress or the Eisenhower administration which tends to restore private power to a position of monopoly.

Mr. President, the Federal power program of the last 20 years has benefited us in many lines of activity. It has been flexible and adaptable to the needs and desires of every region. It has also been a worthwhile force in breaking down the restraints of monopoly price-fixing on the widespread use of electricity in the homes, on the farms, and in the building of industry and employment.

While this program was establishing the Tennessee Valley Authority in the great river basin to the west of us. It was forming the basis for the numerous local authorities providing power supply for municipal and rural electric cooperatives in my State of South Carolina. I shall have something further to say about this later in my remarks.

Here I shall only point out what I shall reiterate later, namely, that the future demand on such systems as those of the South Carolina Public Service Authority, a State agency, and the Greenwood County Electric Power Commission, can be met only if the Federal programs for development of our river basins continue in accordance with the present Federal power policy.

Mr. President, I need not remind my colleagues that the Rural Electrification Administration has played an important part in the economic progress of the South. Today, in the States of Virginia, North Carolina, South Carolina, Georgia, Alabama, Mississippi, Tennessee, and Kentucky, there are 229 rural electric cooperatives serving more than 1,300,000 farm families and rural establishments. This means rising standards of living and more profitable farm operation.

This is sound business from the point of view of the Government. The investment is repaid over and over again, not only in the repayment of Government loans, but also in the improvement in the region's ability to pay taxes of all kinds.

The progress of the South during the last 20 years, Mr. President, will continue. But a vital factor in the ability of the South to increase its contribution to the Nation will be the continuation of the Federal river-basin programs and a dynamic rural electrification program. This requires a halt to the efforts by this administration to comply with the demands of private power monopoly.

In saying this, I do not want to reflect on the region-building efforts of the private power companies which serve the South. But I do want to point out that they have gained their places among the more progressive power systems in the country largely under the stimulus which the Federal power policy of the last 20 years has provided.

No one can discount the influence of the Tennessee Valley Authority program on the neighboring companies. No one can discount the influence of the public power agencies authorized under the laws of South Carolina. No one can explain away the accomplishments of the rural electrification program of the Federal Government.

Mr. President, I am going to review some of the development in the South for which Federal power policy is responsible, together with our hopes for the future, and then turn to a discussion of the present situation, for a threat to those hopes is arising like a cloud on the horizon. That threat is that the present Republican administration will try to capture for private monopoly the entire field of electric power.

If the well-organized private power companies succeed in their present campaign, it will mean a setback for the South and a setback for the Nation as a whole.

Let me first say a word about the influence of the Tennessee Valley Authority in the field of electric power.

TVA showed that a revolutionary change in the philosophy of power marketing, in a region where low average income was reflected in low average use of power, could promote a phenomenal expansion of both, so that within the short span of 20 years, first, the region has utilized all of the more than 2 million kilowatts of undeveloped hydroelectric power in the Tennessee River Basin; second, the region is reaching out to absorb the hydroelectric resources of the neighboring Kentucky River Basin as fast as they can be developed; third, the region is expanding its demand for coal to produce steam power at a far greater rate than is the rest of the country; fourth, this provides a stimulus to the more efficient use of other resources which, in turn, lift per capita incomes and the total income of the region to levels which mean a proportionately greater contribution to the business of the Nation.

Mr. President, the entire South has profited by the influence of that example.

But, as I have already remarked, Federal power policy is flexible, provided there is no departure from its basic principle, the principle which challenges private monopoly. So in my State a different experiment was undertaken by having the State legislature give legislative sanction to the creation of the South Carolina Public Service Authority.

During the same years in which the TVA was going forward with the development of the hydroelectric resources of the Tennessee River basin, our South Carolina Authority was going forward with the multipurpose development of the famous Santee-Cooper project on the Santee River. The Federal Government, under the Public Works Administration, provided a loan and grant which made this development possible.

The Santee-Cooper project has a capacity of 134,535 kilowatts. Its output of electrical energy in 1951 totaled about 466 million kilowatt-hours.

A smaller public system set up under the State law is operated by the Greenwood County Electric Power Commission. It owns a steam electric station with 16,000 kilowatts capacity and a hydroelectric station with a capacity of 15,000 kilowatts. The output of these stations in 1951 totaled 147,525,000 kilowatt-hours of electrical energy.

Mr. President, the fact that both of these publicly-owned systems offered themselves as a source of low-cost power supply to municipally owned and rural cooperative electric systems has had a very beneficial effect on the cost of electric service in South Carolina.

Thus, rural electric cooperatives in my State are securing their power supply at about three-quarters of a cent per kilowatt-hour, and a number of them are paying the South Carolina Public Serv-

Mr. JOHNSTON of South Carolina. There are billions of dollars tied up in our streams throughout the Nation, and this policy would mean giving away the streams to the power companies of America.

Mr. MORSE obtained the floor.

DENIAL OF OPPORTUNITY FOR SENATE TO CORRECT A WRONG

Mr. JOHNSON of Colorado. Madam President, will the Senator from Oregon yield?

Mr. MORSE. For what purpose?

Mr. JOHNSON of Colorado. I desire to invite the attention of the Senator from New Jersey [Mr. SMITH] to a great wrong which has been committed because a bill did not come from the Committee on Labor and Public Welfare. I promise I shall not take over 3 minutes, if the Senator will yield that much time to me. The Senator from New Jersey has to leave the Chamber, and that is the only reason why I would interrupt the Senator from Oregon.

Mr. MORSE. Madam President, I have had an understanding with the majority leader all day long that I would not make this last report of the Independent Party at this session of Congress until all the business of the Senate had been transacted. If I correctly understand the request of the Senator from Colorado, and if he has the approval of the majority leader and of the minority leader, I shall not hesitate to yield, but I would not feel justified in yielding for the transaction of any more business unless I can be assured that the business has been approved by the leadership of the Senate.

Mr. JOHNSON of Colorado. I would say to the Senator from Oregon that I have the approval of the majority leader and of the minority leader to interrupt for 2 minutes.

Mr. MORSE. With the understanding that I shall not lose my right to the floor, I shall yield.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSON of Colorado. Madam President, House bill 356 has not been reported by the Senate Committee on Labor and Public Welfare. I regret that, because of an unfortunate controversy among some of the officials of the nonoperating railroad unions, the Senate is denied an opportunity of correcting a wrong which was done to retired railroad workers when the 1951 amendments to the Railroad Retirement Act were enacted by the Congress.

A serious loss was visited upon 30,200 retired railroad annuitants and pensioners, and 10,500 wives of such retired individuals. These beneficiaries had their benefits reduced in some cases as much as $85 for the retired worker and $40 for his wife.

I have spoken to the chairman of the committee, and I hope I am quoting him correctly when I say that he stated that one of the reasons the bill did not make more progress in his committee was that the railroad workers themselves were in a controversy and a dispute as to the merits of the bill.

Mr. SMITH of New Jersey. This matter has been before the committee for some time, and the controversy was raging on two sides within the labor union. The committee did not receive the bill from the House until a few days ago, within the week, and the committee felt there was no time to hold the necessary hearings to resolve the difficulty, and the committee did not feel it was justified in endeavoring to resolve it without having hearings, in light of the controversies brought to the attention of the committee by both sides. Therefore, the committee thought it desirable to lay the matter over until next year and have a hearing on the question. I told the interested parties we hoped to hold hearings early in January.

Mr. JOHNSON of Colorado. I thank the Senator. That was my understanding.

The unfairness done to the railroad retired workers by the 1951 amendment cannot be denied, when we realize the railroad pensioners are the only persons in our entire country so treated. No persons having private retirement are so much affected as are railroad workers.

The Civil Service Retirement Act has no such provision. Those who retire from the Army, the Air Force, the Navy, the Marine Corps, the Coast Guard, and the Coast and Geodetic Survey, the Federal Judiciary, or other plans providing Federal retirement are subjected to deduction because of social-security retirement payments or potential social-security payments.

The brutal nature of the dual benefit provisions in the Railroad Retirement Act of 1951 is brought home to us when we realize that this reduction must be made in the railroad annuities, even though the individual is only potentially entitled to receive an old-age benefit under the Social Security Act, but not receiving it, either because he has not filed for it or because he is still working. In other words, the amount is deducted from his railroad retirement benefit even though he is not receiving social-security benefits to which he might be entitled.

House bill 356 repealing this vicious amendment passed the House a few weeks ago by an almost unanimous voice vote. I hope most earnestly that when we return in January, prompt and favorable action will be taken by the Senate.

Mr. SMITH of New Jersey. I can give the Senator my assurance that the matter will be considered. Representative WOLVERTON is very much interested. He brought the matter to my attention, and I assured him that as soon as we can get adequate hearings we shall consider it.

Mr. JOHNSON of Colorado. I thank the Senator from New Jersey, and I thank the Senator from Oregon very much for yielding.

Mr. DOUGLAS. Mr. President, will the Senator from Oregon yield so that I may address an inquiry to the majority leader?

Mr. MORSE. Provided I do not lose my rights to the floor.

Mr. DOUGLAS. Mr. President, is it the intention of the majority leader to call up tonight order No. 682, to amend the Internal Revenue Code?

Mr. HENDRICKSON. Madam President, I should like to say to the distinguished Senator from Illinois that Calendar 682, the Internal Revenue bill, H. R. 6426, is the pending business of the Senate and is before the Senate.

Mr. DOUGLAS. I wonder whether the Senator from Oregon would be willing to yield to me in order that I may make a statement on the bill, with the understanding, of course, that the Senator will not lose the floor.

Mr. MORSE. I yield, with the understanding that I shall not lose the floor.

AMENDMENT TO INTERNAL REVENUE CODE

The Senate resumed the consideration of the bill (H. R. 6426) to amend the Internal Revenue Code to extend the time during which certain provisions relating to income and estate taxes shall apply, and for other purposes.

Mr. DOUGLAS. Madam Chairman, I hope the distinguished chairman of the Finance Committee will be on the floor so that he may hear the statement I intend to make about this bill, because I want to be fair to the distinguished chairman in connection with this matter.

The PRESIDING OFFICER. The Senator from Illinois has the floor.

Mr. DOUGLAS. Madam President, I now see the distinguished chairman of the Committee on Finance on the floor. I shall not object to the passage of the bill, but I shall object to the method by which it was brought before the Senate. I desire to give the history of the measure, in the hope that it may deter the Senate from moving with such speed on this type of bill in the concluding hours of a session. I invite the distinguished chairman of the Committee on Finance to follow me, and to correct me if I make a mistake.

My records indicate that the bill was introduced in the House on July 21. It was passed by the House on July 22, 1 day after it had been introduced. It was referred to the Senate Finance Committee on July 23, which was a Thursday. It was ordered to be favorably reported, with amendments, by the Senate Committee on Finance, on July 27, which was the following Monday. I cannot imagine that a great deal of work was done on the preceding weekend, Saturday and Sunday, July 25 and 26.

So far as my records show, no hearings were held on the bill. No formal opinion of the Treasury Department or the Internal Revenue Bureau was listed in either the House or the Senate report.

I pause for a moment, to allow the distinguished chairman of the Finance Committee to correct me if I have misstated the facts or am erroneous in any detail.

Mr. MILLIKIN. Madam President, I wish to say——

Mr. DOUGLAS. First, may I ask the Senator if my chonology is correct.

Mr. MILLIKIN. The Senator's chronology is correct.

Mr. DOUGLAS. I thank the Senator.

Mr. MILLIKIN. The Senate Finance Committee gave very careful attention to the bill. It was thoroughly explained by the staff, and a Treasury representative was present constantly. The Treasury agrees completely with the bill.

Mr. DOUGLAS. In my judgment, the bill has some good features, notably the taxation of earnings of so-called movie stars, although I wish that the exemption, instead of being $20,000, could be reduced to $10,000. That is the taxation of earnings of movie stars abroad.

The bill has other good features, such as the amortization deduction for grain-storage facilities and sections 104 and 106, relating to deceased members of the Armed Forces, but it has a number of other features which are, to my mind, somewhat dubious. One is a provision that, upon dissolution of corporations, physical assets may be transferred to individuals, and not be subject to corporate gains in the taxation of individual incomes. The bill contains a very ambiguous provision with respect to the taxation in the States. It is somewhat difficult to determine precisely what it means.

The committee, again, has postponed dealing with the question of taxation of insurance companies. If my information is correct, insurance companies in the United States pay very small sums in taxation. From year to year, we have continued to tax on an outmoded basis, rather than to face the issue of having insurance companies pay their proper proportion. I am aware of the fact that if the bill is not passed, we shall revert to the preceding provision, under which they would actually pay less. But apparently what happens is that each year action is delayed until the final week of the session, and then the present provisions are pushed through under the stress of speed, fatigue, and pressure of other business, and the plea that if action is not taken, we shall be standing in the way of progress, and reverting to inferior law.

So I shall not object to the bill, nor am I going to make any knock-down, drag-out fight upon it. But, as a mere Member of the Senate, I hope that in the future the Committee on Finance will not try to ram such measures through in the concluding days of a session, with very little public attention fastened upon the measure in question.

Mr. MILLIKIN. Mr. President, will the Senator from Oregon further yield?

Mr. MORSE. I yield to the Senator from Colorado with the understanding that I do not lose my right to the floor.

Mr. MILLIKIN. First I wish to thank the distinguished senior Senator from Illinois for his courtesy in connection with the consideration of this bill.

House bill 6426 amends the income and estate tax provisions of the Internal Revenue Code. The bill contains 17 sections relating to the removal of inequities in income and estate-tax cases. Because the changes in the law do not result in any appreciable loss in revenue, it was possible to include them in a bill at this time ahead of the general tax revision bill which will be considered next year. It was not possible at this time to enlarge the scope of the House provisions. Because of the beneficial effect which this bill will have in removing some inequities in the tax law, it was thought advisable by the committee not to delay its enactment by adding other amendments at this time, as the bill came to us from the House it is limited to income and estate tax amendments. We respected the wishes of the House in not extending the bill to cover amendments to the excise or excess profits tax provisions of the Internal Revenue Code. The first six sections of the bill provide for extensions of certain temporary provisions of the code.

Mr. President, I shall not at this time explain the bill section by section. I ask unanimous consent that I may include in the RECORD at this point as a part of my remarks a section by section explanation of the bill.

There being no objection, the explanation was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR MILLIKIN

I wish to discuss H. R. 6426 which amends the income and estate tax provisions of the Internal Revenue Code. The bill contains 17 sections relating to the removal of inequities in income and estate tax cases. Because the changes in the law do not result in any appreciable loss in revenue, it was possible to include them in a bill at this time ahead of the general tax revision bill which will be considered next year. It was not possible at this time to enlarge the scope of the House provisions. Because of the beneficial effect which this bill will have in removing some inequities in the tax law, it was thought advisable by the committee not to delay its enactment by adding other amendments at this time, as the bill came to us from the House it is limited to income and estate tax amendments. We respected the wishes of the House in not extending the bill to cover amendments to the excise of excess-profits-tax provisions of the Internal Revenue Code. The first six sections of the bill provide for extensions of certain temporary provisions of the code.

The first section, namely section 101, continues in effect for 1953 the provisions of section 112 (a) (7) of the Internal Revenue Code. This section permits the liquidation by a shareholder of property in the corporation which has appreciated in value. The property which the shareholder receives on liquidation retains the shareholder's basis, so that any gain is postponed until the shareholder sells the property.

The second section of the bill amends a law we passed last year which overruled the decision of the Supreme Court in the Virginian Hotel case. Under that act a corporation was not required to reduce the basis of its property by excessive depreciation which it had claimed on its return but for which it had received no tax benefit. Under that act, taxpayers were given an election, under regulations to be prescribed by the Secretary of the Treasury to apply this treatment retroactively to the period since February 28, 1913, and before January 1, 1952. However, this election had to be made prior to January 1, 1953. Since the Treasury regulations were not issued until December 30, 1952, it was not possible for many taxpayers to determine whether to make an election. The bill provides relief in this matter by extending the time in which an election can be made through December 31, 1954. A similar difficulty was experienced in connection with the election of a new treatment for war loss recoveries under the Revenue Act of 1951. This new treatment could be applied only if the taxpayer elected prior to January 1, 1953, to have it apply. The election was required to be made in accordance with regulations of the Secretary of the Treasury. Since the Treasury regulations were not promulgated until December 30, 1952, many taxpayers did not have sufficient time to determine whether it was to their advantage to make such an election. The bill extends the period for making the election in such cases through December 31, 1953. The bill also contains 2 provisions providing for an extension of 2 existing provisions of the Internal Revenue Code granting income and estate tax relief to deceased members of of the armed forces killed in action or dying as a result of wounds received while in action. These provisions would expire as of January 1, 1954, under existing law. The bill extends the provisions to cover decedents dying before January 1, 1955.

The bill also extends the present provisions for taxing life-insurance companies for 1 additional year, pending further study of the matter by our staff and the Treasury.

The remaining sections of the bill deal with substantial changes to remove inequities in existing law.

Section 201 of the bill contains an amendment to the act of October 19, 1949, which was designed to help States enforce their taxes on cigarettes. The way this act was drawn, an indictment for violating the law could be brought only in the State from which the cigarettes were shipped. By requiring the person selling cigarettes in interstate commerce to file a report with the State tobacco administration of the State to which the cigarettes were shipped, the bill makes it possible for the action to be brought in the State where the tobacco administrator has his office. The failure to file such a report with the State tobacco administrator will constitute an offense committed in the State where the tobacco administrator resides.

Section 202 removes an inequity in the case of transactions between a family corporation and its shareholder. Under the existing law, in the case of a closely related taxpayer, such as a corporation and a shareholder owning more than 50 percent of the corporation's stock, the corporation is not allowed a deduction for expenses incurred in respect of, or interest accrued to such shareholder where the shareholder is on the cash basis unless such amounts representing such expenses and interest are actually paid to such shareholder by the corporation within 2½ months after the close of the corporation's taxable year. It has developed that in some cases, the shareholder has constructively received such amounts within such 2½ months period and is required under the law to include such amounts in his return for the year of constructive receipt. However, the corporation, under the existing law, is denied a deduction for the amounts representing interest or expenses constructively received by the shareholder because the corporation did not actually make such payments in cash within the 2½-month period. The bill corrects this statute by allowing the corporation to take a deduction for such amounts if the shareholder is required to include such amounts in his tax return for the year in which the 2½-month period is included.

Section 203 of the bill permits certain property in trust which is included in the gross estate of a decedent to have as its basis, for income-tax purposes, in the hands of the persons entitled to take the property at death the value of the property for estate-tax purposes. The amendment is limited to cases where the decedent had reserved a life estate in the property with a power to alter, amend, or terminate the trust. Our staff and the Treasury are studying in con-

nection with the revision bill to be introduced next year the possibility of giving all property includible in the gross-estate and income-tax basis equal to the value of the property for estate-tax purposes. However, pending a review of this entire subject by the staffs, it was deemed advisable to limit this section of the bill only to the case of a trust in which the decedent reserved a life interest with a power to terminate, alter, or amend the trust.

Section 204 of the bill relates to the exemption from the income tax of income earned by a citizen of the United States abroad if he is present in a foreign country for a period of 17 out of 18 consecutive months. While this provision was designed to encourage men with technical knowledge to go abroad to complete specific projects, it has been utilized by some to avoid their proper share of income taxes. To correct this abuse the House bill repealed the provision in its entirety. The Finance Committee is of the opinion that the House action is too harsh, since it would remove the exemption in the case of many bona fide technicians whose services are needed abroad to complete specific projects. Accordingly, the Finance Committee amendment retains the provision of existing law, but limits the exclusion to $20,000 of earned income if the taxpayer is abroad for the full taxable year or to a portion thereof if the taxpayer is abroad for less than a full taxable year.

Section 205 of the bill deals with three situations involving net loss carryovers. One relates to corporations with fiscal years beginning in 1947 and ending in 1948, and another relates to a fiscal year beginning in 1949 and ending in 1950. In such cases the corporation is entitled to treat a portion of its net loss as a 1948 net loss or as a 1950 net loss according to the number of days in the taxable year falling in 1948 or 1950 respectively. Another amendment amends the act of July 15, 1947, providing net loss carryovers in the case of reorganized railroads. The effect of the section is to give reorganized railroads the same net loss carryover treatment which is applied to other corporations.

Section 206 of the bill allows an amortization deduction for erection of grain storage facilities. This section allows the cost of such facilities to be amortized over a period of 60 months. It applies only to construction or adaptation after December 31, 1952, and before January 1, 1957. It is in lieu of the ordinary depreciation allowance. It is believed that this provision will help in reducing the crucial shortage of grain storage facilities which has developed throughout the Nation in the last few years.

Section 207 of the Internal Revenue Code has the effect of repealing the Church decision which taxed pre-March 1931 trusts in which the grantor reserved to himself a life estate. These old trusts were held exempt from the estate tax for a period of almost 20 years. The Supreme Court in holding such trusts taxable in 1950 overruled its earlier decisions. Because of the hardships involved, the Congress attempted to provide partial relief in such cases under the Technical Changes Act. But this partial relief has proved to be unsatisfactory, and the committe believes that in order to provide equity for all taxpayers holding these old trusts, the Church decision should be overruled in its entirety. This is accomplished by this section of the bill.

Section 208 relates to failure of a grantor of a trust to relinquish certain powers over the trust property during his life. The failure to release such powers during life results in the inclusion of the trust property in the grantor's estate at death. Congress permitted powers of this type to be released during life free of gift tax on or after January 1, 1940, and before December 31, 1947. But in some cases grantors could not release such powers prior to death because of mental disability. Because of failure to effectuate the release within the prescribed period, the property in trust in includible in the deceased grantor's estate. The bill remedies this inequity by not requiring the trust property to be included in the gross estate of the grantor where the grantor could not release the power within the required period because of insanity.

Section 209 relates to reversionary interests in the case of life insurance. The existing law provides that in case of a decedent dying after October 21, 1942, the date of the enactment of the Revenue Act of 1942, the proceeds of life insurance should not be included in his gross estate for estate tax purposes by reason of insurance premiums paid by the decendent prior to January 10, 1941, if the decedent at no time after that date retained an incident of ownership in the property. In determining whether the decedent had an incident of ownership, there is taken into account under existing law only those reversionary interests exceeding 5 percent of the value of the policy and arising other than by operation of law. However, this provision only applies to decedents dying after October 21, 1942. The bill extends the relief also to decendents dying after January 10, 1941, and before October 22, 1942.

Section 210 of the bill permits a marital deduction in certain cases of property left by will which is subject to a testamentary power of appointment in the surviving spouse. While the Revenue Act of 1948 permitted a marital deduction in case of property passing under a general power of appointment, the 1948 provision required the interest in property passing from the decedent under a power of appointment to be in trust and the power to be unlimited and exercisable by the surviving spouse at all events. While the 1948 act was not enacted until April 2, 1948, it was made effective from January 1, 1948. There were some decedents who died after January 1, 1948 and prior to April 2, 1948, who left to the surviving spouse a general power of appointment over property, but such power does not conform to the technical requirements of the 1948 act. If the decedent had been living at the time of the enactment of the 1948 act, he would have undoubtedly changed his will to meet these technical requirements. The bill recognizes such general powers as meeting the requirements of the statute where the decedent died after January 1, 1948 and prior to April 2, 1948.

Section 211 of the bill relates to mitigation of effect of the statute of limitations. Under the existing law, both the Commissioner and the taxpayer are precluded from pleading the statute of limitations, in cases where either the taxpayer or the Commissioner has maintained an inconsistent position in reporting income or deductions. There are some situations where the running of the statute will result in a hardship even though the taxpayer or the Commissioner has not taken an inconsistent position. For example, if a taxpayer claims a deduction in the wrong year and at the time the deduction is claimed the statute of limitations has not run on the right year in which the deduction should have been taken, the bill will permit a refund if the deduction is taken in the right year and results in an overpayment. Conversely, the Commissioner would be allowed to make an assessment of tax with respect to the proper taxable year, if at the time such item was included in the wrong year the period for assessment had not run with respect to the right year.

Mr. MILLIKIN. Mr. President, I should like to bring to the attention of my colleagues two of the provisions with respect to which there has been great interest.

Section 204 of the bill relates to the exemption from the income tax of income earned by a citizen of the United States abroad if he is present in a foreign country for a period of 17 out of 18 consecutive months. While this provision was designed to encourage men with technical knowledge to go abroad to complete specific projects, it has been utilized by some to avoid their proper share of income taxes. To correct this abuse the House bill repealed the provision in its entirety. The Finance Committee is of the opinion that the House action is too harsh, since it would remove the exemption in the case of many bona fide technicians whose services are needed abroad to complete specific projects. Accordingly the Finance Committee amendment retains the provision of existing law, but limits the exclusion to $20,000 of earned income if the taxpayer is abroad for the full taxable year or to a portion thereof if the taxpayer is abroad for less than a full taxable year.

I should like to invite the attention of the Senators also to section 206 of the bill, which allows an amortization deduction for erection of grain-storage facilities. This section allows the cost of such facilities to be amortized over a period of 60 months or 5 years. It applies only to construction or adaptation after December 31, 1952, and before January 1, 1957. It is in lieu of the ordinary depreciation allowance. It is believed that this provision will help in reducing the crucial shortage of grain-storage facilities which has developed throughout the Nation in the past few years.

Madam President, I suggest that we consider the committee amendments, and approve them.

Mr. KILGORE. Mr. President, will the Senator yield for a question?

Mr. MILLIKIN. I yield.

Mr. KILGORE. I refer to section 201 on page 6. This is intended as an internal revenue bill, which is normally interpreted as meaning something to bring money into the Treasury or to save money for the Treasury. However, we have made a change of wording in the provisions. The previous Act was an attempt to aid the States in the collection of their taxes. In this section it seems that we now seek to use the powers of the Department of Justice, at the expense of the United States Government, to collect taxes due the States. In other words, by striking out the words "forward to" and inserting in lieu thereof the words "file with," we change the venue of the action. For example, someone who is shipping cigarettes across State lines, under the present law is required to mail a copy of his invoice to the tobacco commissioner or tax commissioner of the State in which the cigarettes are to be delivered. By the proposed change, he would be required to file it with him. That changes the venue, so that the crime is committed in the State of receipt; and to collect a few cents taxes for that State, the Federal Government may, through the Department of Justice, be compelled to spend thousands of dollars in prosecuting violations.

I am wondering if it is not really a violation of the Federal taxpayers' rights to use the taxing power of the entire country to collect a few cents taxes for one State.

Mr. MILLIKIN. I will say to the distinguished Senator that the purpose of the provision was to help the States in the collection of their cigarette taxes.

Mr. MUNDT. Madam President, will the Senator yield?

Mr. MILLIKIN. I yield.

Mr. MUNDT. I wish to say to the illustrious chairman of the Senate Committee on Finance that, as one of those representing a great farming area, I desire to express my congratulations and appreciation to his committee for having the diligence, at this late hour, to bring in the amortization item with respect to grain bins. It seems to me that that is one of the most constructive steps ever taken in Congress to help the farmer on the farm and the farm organizations, using private enterprise to provide the necessary grain storage to take care of crops which tend to plague us each year as we run into a shortage of storage facilities. I am happy to know that two old friends of mine with whom I served in the House, Representative CURTIS of Nebraska and Representative MARTIN of Iowa, took the leadership in that body, and that our great leader of the Finance Committee in the Senate took the leadership here. I think it is something that the farmers of America will appreciate. I think it will pay us great dividends in terms of being able to store on the farms, where they should be stored, the grains which are raised each year. It represents a great step forward in American agriculture, and I express my appreciation of the fact that even at this late hour, 20 minutes past 10 on adjournment night, we are here passing this important piece of constructive legislation.

Mr. MILLIKIN. I thank the Senator for his comments. He has been very much interested in this provision from the time it originated in the House. We have had many conversations on the subject and his suggestions have been very constructive.

Mr. MUNDT. I wish to apologize to the chairman for bird-dogging him from the sidelines, as I have, because it appears that no bird-dogging was needed.

Mr. MILLIKIN. The efforts of the Senator from South Dakota were very much appreciated.

Mr. KILGORE. Mr. President, will the Senator yield further so that I may make an explanation?

Mr. MILLIKIN. I have promised to yield to the Senator from Colorado.

Mr. JOHNSON of Colorado. The Senator from West Virginia will not object to what I have to say. It goes to the same point. Section 201 of the bill ought not to be adopted. It has nothing whatever to do with Federal revenues. We enacted a section to help the States collect taxes. Now we are trying to adopt a modified section 201 which will cause the Federal Government to prosecute the buyer. The former law had to do with the seller. Now we are going after the buyer. It is entirely without the province of the Federal Government. However, for the reasons expressed by the Senator from South Dakota, and also with reference to other provisions of the bill which are very important and ought to be enacted, I do not want to jeopardize the bill by raising too much of a fuss with respect to section 201. I do want to insert in the RECORD at this point a statement prepared by Mr. Ray Brannaman, former national commander of the Veterans of Foreign Wars. That organization is engaged in the distribution of cigarettes from the county of Arlington in Virginia to several States.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

The proposed amendment to 15 United States Code, section 376, which comprises section 201 of H. R. 6426, is an entirely unnecessary piece of legislation. It merely provides a means for the Justice Department to spend $100,000 when $5,000 will do just as well. As the law now stands the Government has adequate means for bringing any violators to trial.

The change in the law is for the purpose of harassment only. Its purpose is to create 30 trials where one will do the same job, since the only persons it affects will promise to cease and desist if it is found that they are doing anything unlawful. The affected persons (VFW of Alexandria, Va., and Colorado) feel that this unjust hazing and harassment is especially unfair in view of the fact that the violation involved only a misdemeanor and that the Government is going to unnecessary lengths to persecute them by making it physically and financially impossible to defend themselves all over the United States at the same time.

It should be pointed out at this time that the Constitution of the United States intended that a defendant be tried on his home grounds, not on the locale of the prosecutor or in distant courts where their reputations and integrity are not known and where they may not be financially able to bring their witneses. This view has been upheld by the courts.

After all this is a Federal law, not a State law, and the Federal court of the home of the corporation should be the place of venue.

Mr. JOHNSON of Colorado. As I say, I do not want to jeopardize the bill by complaining too bitterly about the provision, but the provision is entirely wrong, and I hope in the next session of Congress we may correct it. I believe it is too late to correct it now, and I hope we will correct it in the next session.

Mr. MILLIKIN. I thank the distinguished Senator.

Mr. KILGORE. Mr. President, will the Senator yield?

Mr. MILLIKIN. I yield.

Mr. KILGORE. The point I make is that if the case can be tried in a State court, well and good, but it has to be tried in the Federal court. It has to be tried as a criminal case. If someone ships cigarettes from North Carolina, for instance, to the State of New York the invoice must be filed in the tobacco commissioner's office in the State of New York by the shipper. It is not sufficient to mail it. It is necessary to have proof that it was filed in that office. The penalty is prosecution. Where? It was formerly prosecuted in the State of North Carolina. I felt at that time it was a mistake to place the burden of collecting a State's taxes on the Federal Department of Justice. Now they have to bring the witnesses from North Carolina to New York and indict them in New York in the Federal district in which the tobacco commissioner's office is located. The invoice may have been mailed in good faith, but if the commissioner says he has not received it he can still have those persons indicted in the State of New York.

The other day we had a proposal put before us in the Committee on the Judiciary for the Federal Government to enforce the fireworks laws of the various States. That proposal was turned down, because we felt we were giving enough State aid, as it was. This is another State-aid program which may run into a tremendous sum of money for the collection of a relatively small amount of State taxes. The Senator from Colorado has heard on his side of the aisle, as I have heard on my side, every time an appropriation comes up, the contention that the States are far richer now per capita than the Federal Government.

In other words, they are in a very good tax situation, but many of them have levied a great many excessive taxes, and there have been efforts made to evade payment of such taxes. This provision hits the legitimate dealer as much as the person who is trying to evade the law. It puts the burden on the Federal Government to pay the cost. The Senator from Colorado is an eminent lawyer, and he knows full well the cost of prosecution in the Federal courts.

Mr. MILLIKIN. I merely wish to say that the amendment is strongly desired by the House. I suggest also that if the fears which the Senator has should develop, the matter can be brought up again. If we try to do anything about it tonight, we will jeopardize the passage of the bill, which contains many useful provisions.

Mr. RUSSELL. Mr. President, will the Senator yield?

Mr. MILLIKIN. I yield.

Mr. RUSSELL. From what the distinguished Senator from West Virginia [Mr. KILGORE] and the Senator from Colorado [Mr. JOHNSON] have stated, it seems to me that the bill in some of its provisions at least is invading the rights of States as to their prosecution of the penal provisions. Does the Senator hold any fears of that kind?

Mr. MILLIKIN. None at all.

Mr. RUSSELL. I have not read the bill, but from the discussion, it seems to me that it is going a rather long way to give the Federal Government that much more prosecution authority as against that of the several States.

Mr. MILLIKIN. The bill is primarily designed to protect the revenues of the States which tax cigarettes. That is its primary purpose. The theory is that if a report can be filed in the State where the cigarettes are sold, there is a better possibility of getting a prosecution, and thus provide deterrents which would keep low-tax cigarettes from coming into high-tax cigarette States.

Mr. RUSSELL. Mr. President, will the Senator yield?

Mr. MILLIKIN. I yield.

Mr. RUSSELL. Has the Senator from Colorado had any objection filed by any collectors of revenue of any of the several States?

Mr. MILLIKIN. We have had no such objections.

Madam President, may we proceed to the consideration of the committee amendments?

The PRESIDING OFFICER (Mrs. SMITH of Maine in the chair). The clerk will state the committee amendments.

The amendments of the Committee on Finance were on page 10, after line 16, to strike out:

(a) Amendment of section 116 (a) (2): Section 116 (a) (2) (relating to exclusion from gross income of earned income from sources without the United States) is hereby amended—

(1) by inserting "on or before April 14, 1953," after "amounts received";

(2) by striking out "such period" the second place it appears and inserting in lieu thereof "such period of 18 consecutive months"; and

(3) by adding at the end thereof the following new sentence: "For the purpose of applying section 107 to any amount of earned income described in this paragraph which is received after April 14, 1953, this paragraph shall not apply in computing the tax attributable to any portion of such amount deemed for the purpose of section 107 to have been received on or before April 14, 1953."

And insert:

(a) Amendment of section 116 (a) (2): Section 116 (a) (2) (relating to exclusion from gross income of earned income from sources without the United States) is hereby amended by adding at the end thereof the following new sentences:

"If the 18-month period incudes the entire taxable year, the amount excluded under this paragraph for such taxable year shall not exceed $20,000. If the 18-month period does not include the entire taxable year, the amount excluded under this paragraph for such taxable year shall not exceed an amount which bears the same ratio to $20,000 as the number of days in the part of the taxable year within the 18-month period bears to the total number of days in such year."

On page 12, line 15, after the word "after", to strike out "April 14, 1953" and insert "December 31, 1952, but only to amounts received after such date. In the case of any taxable year beginning in 1952 and ending in 1953 the exclusion of amounts received after December 31, 1952, shall not exceed an amount which is the same proportion of $20,000 as the number of days in such taxable year after December 31, 1952, is of 365 days."

On page 30, line 18, after the word "after", to strike out "July" and insert "June", and on page 31 at the beginning of line 8 to strike out "July" and insert "June."

The PRESIDING OFFICER. The question is on agreeing to the committee amendments.

The amendments were agreed to.

Mr. MILLIKIN. Mr. President, I move a technical amendment. I ask that on page 30, line 22, the words "or after" be stricken.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

Mr. KNOWLAND. Mr. President, will the Senator from Oregon yield for the purpose of taking up several bills, which I believe to be noncontroversial?

Mr. MORSE. Mr. President, with the understanding that I do not lose the floor, I yield for that purpose.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KNOWLAND. Mr. President, I wish to express my appreciation to the Senator from Oregon for his cooperation and courtesy in this matter.

Mr. MILLIKIN. I too wish to express my appreciation to the Senator from Oregon for his kindness in the matter.

COMMISSION ON JUDICIAL AND CONGRESSIONAL SALARIES

The PRESIDING OFFICER (Mrs. SMITH of Maine in the chair) laid before the Senate the amendments of the House of Representatives to the bill (S. 2417) to provide for the creation of a Commission on Judicial and Congressional Salaries, and for other purposes, which were on page 3, line 15, strike out all after "(a)" down to and including "determined" in line 25, and insert: "The Commission shall (1) determine appropriate rates of salaries for justices and judges of the courts of the United States and for the Vice President, the Speaker of the House of Representatives, and Members of Congress, in order to provide fair and reasonable compensation to such officials, and (2) report its findings on or before January 15, 1954, to the President, the Chief Justice of the United States, the President of the Senate, and the Speaker of the House of Representatives."; and on page 5, line 10, strike out all after "(a)" down to and including "Commission," in line 19, and insert: "Within 60 legislative days after the submission of the report of the Commission the Congress shall consider the report and enact legislation establishing the salaries of justices and judges of the courts of the United States and the salaries and mileage of Members of Congress, including the Vice President and the Speaker of the House. Such rates shall not be less than those prevailing on the date of enactment hereof (including the amount of the expense allowance herein described) and shall not exceed those recommended by the Commission."

Mr. CARLSON. Mr. President, I move that the Senate concur in the amendments of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Kansas.

Mr. KNOWLAND. Mr. President, may we have a brief explanation of the change in the bill?

Mr. CARLSON. The House struck out certain language in the Senate bill, S. 2417, and provided for a commission to make a study and a report to Congress on judicial and congressional salaries. Action will have to be taken by Congress itself after the report is issued, and it is so requested to do so.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Kansas [Mr. CARLSON]

The motion was agreed to.

CITY OF RENO, NEV.

Mr. KNOWLAND. Madam President, I move that the Senate proceed to the consideration of Senate bill 2511, Calendar 815, for the relief of the city of Reno, Nev.

There being no objection, the Senate proceeded to consider the bill (S. 2511) for the relief of the city of Reno, Nev.

Mr. KNOWLAND. Madam President, may we have a brief explanation of the bill, please.

Mr. McCARRAN. Madam President, in the city of Reno, Nev., there is a Federal Government building. The street alongside the building required paving. There was no way for the Federal Government to pay for the paving, so the city of Reno was compelled to pay $1,600-odd for the paving of the street. If the street had not been paved, there would have been an unpaved gap in it for the length of the building.

The purpose of the bill is merely to reimburse the city of Reno for the money it actually paid.

Mr. MORSE. Madam President, will Senator from Nevada yield to me?

Mr. McCARRAN. I yield.

Mr. MORSE. I understand that the bill merely requires the Federal Government to pay the city of Reno, Nev., compensation for a paving job, because the paving was necessary in order that the Federal Government might make efficient use of its building.

Mr. McCARRAN. That is correct.

Mr. MORSE. I have no objection.

The PRESIDING OFFICER. If there is no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 2511) was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted, etc., That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the city of Reno, Nev., the sum of $1,620, representing the amount which would have been assessable for street improvements against property owned by the United States, and used by the Forest Service, in such city if such property had been privately owned; such property being more particularly described as follows: Commencing at the intersection of the north and south line on the east side of the northwest quarter of the southeast quarter of section 12, township 19, north, range 19 east, and the south side of Second Street as extended, through the east city limits of Reno, Nevada; thence southerly along the east line of the northwest quarter of the southeast quarter of section 12, for seven hundred and twenty-six feet; thence westerly paralleling said Second Street for three hundred feet; thence northerly paralleling the east line of the northwest quarter of the southeast quarter, section 12, for seven hundred and twenty-six feet; to the south side of said Second Street; thence easterly along the south side of said Second Street for three hundred feet; to the place of commencing containing five acres, more or less, three hundred front feet.

CITY AND COUNTY OF DENVER, COLO.

Mr. KNOWLAND. Madam President, I move that the Senate proceed to the consideration of House bill 2750, Calendar 752, for the relief of Denver, Colo.

The motion was agreed to; and the Senate proceeded to consider the bill (H. R. 2750) for the relief of the city and county of Denver, Colo.

Mr. KNOWLAND. Madam President, may we have an explanation of the bill?

Mr. JOHNSON of Colorado. Madam President, this bill is similar to the one just passed. It involves a paving job which was done at Lowry Field. The paving job is very advantageous to Lowry Field; but the Air Force has stated that under the law it could not participate in the paving work and could not pay for it.

But as my colleagues will recall, Lowry Field is a gift of the city of Denver. It is very valuable property, worth millions of dollars. Denver presented Lowry Field to the Federal Government, in the first place. They had to do some paving on land adjoining the field.

The purpose of this bill is to reimburse the city and county of Denver, Colo., for paving the Federal Government's property.

Mr. MORSE. Madam President, will the Senator from Colorado yield for a question?

Mr. JOHNSON of Colorado. I yield.

Mr. MORSE. I understand that the bill really provides for payment by the Federal Government for the paving of an air strip at Denver. The Federal Government, so the Senator from Colorado assures us, will receive full value, from the use of the field, for the cost of the paving.

Mr. JOHNSON of Colorado. That is correct.

Mr. MORSE. Let me say to the Senator from Colorado that I have no objection to the bill. In fact, I am very glad to have the precedent established.

Let me speak for a moment to the Air Force, to point out that last year the Senators from Oregon tried to get the Air Force to recognize a similar principle which was involved in a proposed expenditure of Federal funds on the Portland air field, in Portland, Ore., but at that time we could not get any cooperation from the Air Force.

I am satisfied that the request of the group operating the Portland Air Field is just as sound as the request coming from Denver, Colo. I shall not object to the bill relating to the Denver, Colo., case; but I serve notice that the Air Force will hear from me in regard to the Portland Air Field.

Mr. GORE. Madam President, will the Senator from Colorado yield to me?

Mr. JOHNSON of Colorado. I yield.

Mr. GORE. Madam President, yesterday I objected to this bill, in connection with the consent calendar; but I agreed to study it before today. I have now done so.

At first it appeared to me that the bill represented an effort on the part of the city of Denver to tax Federal property. I find I was in error. This Government installation has already received, according to the evidence which was presented, more benefit from this development, paid for by the city of Denver, than the distinguished senior Senator from Colorado proposes that the Federal Government contribute for that particular development.

Mr. JOHNSON of Colorado. That is correct.

Mr. GORE. Despite the fact that some persons might view this measure as a precedent, I think the equity is so overwhelmingly in favor of enactment of the bill, that I have withdrawn my objection; and I now urge its passage.

Mr. JOHNSON of Colorado. I thank the Senator.

The PRESIDING OFFICER. If there is no amendment to be proposed, the question is on the third reading of the bill.

The bill (H. R. 2750) was ordered to a third reading, read the third time, and passed.

WATER SUPPLY FROM LAKE TEXOMA FOR THE CITY OF DENISON, TEX.

Mr. JOHNSON of Texas. Madam President, I ask unanimous consent for the immediate consideration of House bill 6813, relating to the water supply for the city of Denison, Tex. The bill is now at the desk.

The PRESIDING OFFICER. The bill will be read by title, for the information of the Senate.

The bill (H. R. 6813) to authorize the utilization of a limited amount of storage space in Lake Texoma for the purpose of water supply for the city of Denison, Tex., was read twice by its title.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Texas for the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. JOHNSON of Texas. Madam President, the bill has been passed unanimously by the House. It is my understanding that the Army engineers thought they had authority to contract with the city of Denison for the sale of water from the Denison Dam to the city of Denison. But late in the session they decided they did not have such authority.

In order to be able to charge the city for the water now being supplied to it, it is necessary that this measure be enacted before we adjourn.

I have gone over the matter carefully with the members of the Public Works Committee who are familiar with it, and they have unanimously agreed that the bill should be passed.

The PRESIDING OFFICER. If there is no amendment to be proposed, the question is on the engrossment and third reading of the bill.

Mr. THYE. Madam President, let me inquire what cost to the Federal Government is involved.

Mr. JOHNSON of Texas. No cost to the Federal Government is involved. If this measure is enacted, it will permit the Army engineers to charge the city of Denison—a city of about 20,000 persons—for the water now being given to Denison from the Federal dam. In other words, there will be revenue to the Federal Government, not cost to the Federal Government. The enactment of this measure will not cost the Federal Government anything.

Mr. MORSE. Madam President, I wish to say a word or two on this bill. For purposes of the legislative history, I wish to say that I discussed the bill with the Senator from Texas [Mr. JOHNSON] and the Senator from Pennsylvania [Mr. MARTIN], the chairman of the Committee on Public Works. I wish it distinctly understood that the Morse formula is not involved in this bill, although it was first thought by some persons to be involved.

This bill will simply give the Army engineers authority to sell Federal property—in this instance, water to be sold to the city of Denison, Tex.—and the Federal Government will receive full value for whatever interest the Federal Government has in the water.

Mr. MARTIN. Madam President, this matter was placed before the Public Works Committee this afternoon, and was considered by all members of the committee, except one, who at present is absent from the city. The bill has the unanimous approval, with that one exception, of all members of the Public Works Committee.

The PRESIDING OFFICER. If there is no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (H. R. 6813) was ordered to a third reading, read the third time, and passed.

BOBBY BROWN MEMORIAL PARK

Mr. RUSSELL. Madam President, will the Senator from Oregon be generous enough to yield to me for a moment?

Mr. MORSE. Yes, if it is understood that in doing so, my right to the floor is protected.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RUSSELL. Madam President, my State, in common with her sister States, lost some of her finest sons in World War II. None of those losses was greater than that suffered by my State when Bobby Brown, the son of Representative and Mrs. Paul Brown, of Elberton, Ga., was reported missing while serving on a submarine in the Pacific.

As a friend of his family I knew this young man all of his life. I happened to be in Pearl Harbor in 1943, when he had just returned with his submarine from a successful foray against the enemy; and I had the pleasure of seeing him there. He was the embodiment of the fighting spirit of America that carried our flag to victory. He never returned from his next cruise against the enemy.

Bobby Brown was one of the most brilliant young men of his generation. He graduated from the University of Georgia with the highest honors. He had a wonderful personality, and he never met any person that was not his friend. At

other members of our committee. If that amendment is stricken out, it will then be the same bill that the House passed and which the gentleman from Michigan was in favor of.

Mr. BENNETT of Michigan. Did the gentleman read the report of the other body on this bill which says that the intent of this amendment is to permit the Food and Drug, under a factory inspection bill, to go into a drugstore and examine the prescription files, and to go into a drug-manufacturing concern or a food establishment and look at the secret formulas and the patents and the complaint files and the personnel records. The Food and Drug Administration has claimed, and the other body in its report confirm the fact, that the adoption of the amendment referred to here will give the Food and Drug Administration not the authority to go in and inspect a factory for unsanitary conditions, which is the intent of the legislation, but to go in on a fishing expedition and to make a search of the person's factory, his plant, and to do anything they want to do after they get in there under the guise of this authority. That certainly was not the intent of the House of Representatives, as expressed by the committee and the debate on the House floor.

Mr. PRIEST. I simply want to inquire of our chairman whether he had made a request to take from the Speaker's desk the Senate bill, with the Senate amendment thereto, and disagree to the Senate amendment.

Mr. WOLVERTON. That is my unanimous consent request.

Mr. PRIEST. Is that request pending at this time, Mr. Speaker?

The SPEAKER. That request has been made and the gentleman from Michigan has the floor under a reservation of right to object.

Mr. PRIEST. If the gentleman from New Jersey would yield further, it would seem to me that if that request be granted, it is entirely in line, insofar as any House action is concerned, with the viewpoint of the gentleman from Michigan [Mr. BENNETT], because the request is not an approval of the Senate amendment but a disagreement with the Senate amendment; and evidently that is the one provision in the bill that the gentleman from Michigan is objecting to.

Mr. WOLVERTON. I think the gentleman from Tennessee [Mr. PRIEST] is absolutely right. It surprises me greatly that any objection should be made to the request I have made, in view of the fact that I have asked that the objectionable amendment of the Senate be stricken. At least that is the purpose of the disagreement. What more could be done to sustain the House position than to have the bill, as it passed the House, approved in the Senate.

The procedure that I have asked for is for the purpose of enabling the Senate, if they will, to strike out the objectionable amendment.

With reference to what has been said by the gentleman from Michigan [Mr. BENNETT] in criticism of the report filed in the Senate he is absolutely justified in what he has said as to the objectionable features of that report. If the Senate amendment is stricken out, then whatever was said in the Senate about the question of inspection of prescriptions, would, in effect, be eliminated as the language in the Senate report only applies to the Senate amendment and not to the House bill.

I am informed—although I was not present when this matter was debated in the Senate—but I am informed by a person who was present that the Senator who made the report in the Senate advised the Senate that the House report was an exceedingly good report, and that he would look upon that as the report——

Mr. HARRIS. Mr. Speaker, will the gentleman yield?

Mr. WOLVERTON. I yield to the gentleman from Arkansas.

Mr. HARRIS. Would it not be a fair statement to say that should the House disagree to the Senate amendment and send it back to the Senate, and should the Senate then agree to the action of the House, which was taken some time ago, and pass the bill, then the bill would be as we had debated it in the House, which very thoroughly explains the provision, and which is what we intended to have pass?

Mr. WOLVERTON. That is true. It would then include the interpretation which was given to the bill when it was before the House. The gentleman from Arkansas [Mr. HARRIS] was very careful to state the intent of the bill as presented to the House. The gentleman from Arkansas at time went to a great deal of trouble to state what the purpose of our committee was. In addition to that, I think every member of the committee who was on the floor of the House at that time agreed with him as to his interpretation of the proposed bill. This was the result of an arrangement made to clarify and make plain without doubt the purpose and intent of the committee.

Mr. HARRIS. Mr. Speaker, will my chairman yield in order that we might say something to our colleague from Michigan.

Mr. HALLECK. Mr. Speaker, may I suggest that we hear what the gentleman from Michigan has to say about this?

Mr. BENNETT of Michigan. Mr. Speaker, as I understand, the request of our chairman, the gentleman from New Jersey [Mr. WOLVERTON] is to take the bill up, and disagree with the Senate amendment? Is that the request?

The SPEAKER. The situation is that the gentleman from New Jersey has asked that the conference report be taken up and that the House disagree with the Senate amendment.

Mr. BENNETT of Michigan. Mr. Speaker, I withdraw my objection.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

COMMUNICATION FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following communication from the President of the United States, which was read by the Clerk:

THE WHITE HOUSE,
Washington, August 3, 1953.

The Honorable JOSEPH MARTIN,
Speaker of the House of Representatives, Washington, D. C.

DEAR MR. SPEAKER: With the end of the first session of the 83d Congress, I extend my appreciation to the Members of the House of Representatives for the work they have carried on with such diligence and steadfast purpose. I believe that the American people will view the record as constructive and worthwhile. The Congress has dealt wisely with a wide range of problems, and I am particularly grateful for the understanding and support they have given to me personally. It has lightened my burden immeasurably.

I extend to each Member my warm good wishes as he leaves for home. It is my hope that you will all enjoy some rest from your labors after this demanding session, although I well realize that your presence in home communities will give rise to many pressing demands on your time and energies. In any case, I look forward to seeing all of you again in January and hope that we can continue afresh along the constructive path already established by the first session of the 83d Congress.

Sincerely,

DWIGHT D. EISENHOWER.

A TOUGH JOB TO FIGHT EXTORTIONISTS

The SPEAKER. Under the previous order of the House, the gentleman from Michigan [Mr. HOFFMAN] is recognized for 5 minutes.

Mr. HOFFMAN of Michigan. Mr. Speaker, folks say they want the budget balanced, taxes reduced, but when, recently, I requested subcommittee chairmen of the Comittee on Government Operations to, during the recess, curtail spending and investigations, 23 of the 30 turned on me, insisted upon continuing investigations here and abroad, fixing and paying the salaries of their own employees.

I was very happy, indeed, to have the committee and the House relieve me of the obligation to sign vouchers for services and expenses which I was not permitted to limit. Who wants to sign the check when he did not give the order?

Then, for good measure, the committee limited hearings which I proposed to hold where I have evidence that successors to the old Capone crime syndicate are extorting millions of dollars from workers—union and nonunion—small business men and Uncle Sam himself.

I did not like the attempt to liquidate or limit my attempt to expose extortionists and racketeers. It is not, as Harry Whiteley, editor of the Dowagiac

Daily News, charges, that I think I am the only one capable to do the job. I am not. But it is a disagreeable, vote-losing job and, during the 18 years I have been here, only 1 or 2 Congressmen have been willing to tackle it.

Now, Harry, who only occasionally takes time off from "panning" me to say a good word, is grieved, apparently, because I am not a "yes man."

I am sorry that my "notable belligerency"—Harry's words—causes me to disagree with committee members and if he or the Republican leadership can find any other member who is willing to take on the gangsters in the labor—or any other—movement, and to follow through to the bitter end no matter how high into political circles the trail may lead, I might be glad to get out of the way.

I cannot please this particular critic who even found fault with the grammar in a bill I introduced, though it was written by the legislative counsel, because we have too many things in common. He has convictions. So have I.

To the folks who read Harry's editorials and to others of like mind, I can only promise to try do better while retaining and fighting for my convictions; avoid, just for the sake of political expediency, becoming a rubber stamp and diligently ask the good Lord to aid me in an effort to each day serve my country as well as the people of the district just a little better.

LABOR, HEALTH, EDUCATION, AND WELFARE APPROPRIATIONS, 1954

Mr. BUSBEY. Mr. Speaker, I ask unanimous consent to revise and extend my own remarks, and that these additional remarks be inserted in the permanent RECORD immediately preceding my request on page 10329 of the RECORD of July 28, 1953, where I moved the previous question on the conference report on the bill (H. R. 5246) making appropriations for the Departments of Labor, Health, Education, and Welfare.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. BUSBEY. Mr. Speaker, I have requested permission to insert these remarks in the permanent RECORD at this point because I was amazed to find, on reading the proceedings of the House of Representatives for Tuesday, July 28, 1953, certain remarks by other Members of the House.

The remarks I refer to were inserted by permission that was granted at the end of the day's proceedings and were statements pertaining to the hospital construction program under the Hill-Burton Act. The point I am making is this: If these remarks had been made in the House during debate when I had on the floor the conference report on the bill (H. R. 5246) making appropriations for the Departments of Labor, and Health, Education, and Welfare, I most assuredly would have challenged the interpretations of my colleagues.

Because of the fact that the remarks were not made on the floor of the House, but instead were printed under leave to revise and extend their remarks, I had no opportunity to answer the opinions and impressions of my two distinguished friends. Had their observations been made or any questions asked during the debate on the conference report, I would, of course, have had an opportunity to reply. I should like to make it clear at this point that all of the time allotted for the debate was not used; and that I answered every question and made explanations on all items which any Member who was present desired to have explained. In other words, there was adequate time for all who wished to speak.

No Member who spoke said one word in support of the so-called split-project method of financing under the hospital construction program; nor did any Member indicate, by spoken word, any disagreement with the statement of the managers on this subject. The report of the House Committee on Appropriations, the report of the Senate Committee on Appropriations, debate on the bill, and the statement of the managers very adequately establish the intent of Congress.

I am inserting this statement in the permanent RECORD simply to show that the remarks in the CONGRESSIONAL RECORD of July 28 regarding split projects appeared as being unchallenged for the sole reason that there was no opportunity to challenge them.

THANKS TO THE KOREAN WAR HEROES

The SPEAKER. Under the previous order of the House, the gentlewoman from Massachusetts [Mrs. ROGERS] is recognized for 5 minutes.

(Mrs. ROGERS of Massachusetts asked and was given permission to revise and extend her remarks.)

Mrs. ROGERS of Massachusetts. Mr. Speaker, I am unwilling for my part to have the Congress adjourn without saying a word of thanks to those who have brought about the truce in Korea. I am even more unwilling to say goodbye to this Congress without thanking the officers who led the men in Korea and the men who did the fighting and the suffering.

Personally, I feel in many ways that we should not adjourn, that we should be in continuous session; but I realize the Members are very tired, though not so tired as the boys in Korea, but tired, and that we will probably do better work when we come back.

I wish to thank the Speaker and the leaders on both sides of the House for their patience, because they must have been sorely tried at times when they were doing what they considered was the best. I would like to thank the Members and staff on our Committee on Veterans' Affairs for their splendid cooperation under great difficulties.

I would like to thank every official of the House, the clerks, the pages, the doorkeepers, and everybody for their unfailing courtesy, their unfailing cooperation.

I would like to thank especially the little pages who have a knowledge and a courtesy that comes from something that is extremely fine. They will grow up with the future of America in their hands, and it will be in very safe hands.

RECESS

The SPEAKER. The House will stand in recess subject to the call of the Chair.

Accordingly at 10 o'clock and 4 minutes p. m., the House stood in recess subject to the call of the Chair.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 11 o'clock and 2 minutes p. m.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate, by Mr. Ast, one of its clerks, announced that the Senate had passed a concurrent resolution of the following title, in which the concurrence of House is requested:

S. Con. Res. 53. Concurrent resolution providing for sine die adjournment of the first session of the 83d Congress.

The message also announced that the Senate recedes from its amendment to the bill (H. R. 5740) entitled "An act to amend the Federal Food, Drug, and Cosmetic Act, so as to protect the public health and welfare by providing certain authority for factory inspection, and for other purposes."

PROVISION FOR SINE DIE ADJOURNMENT

The SPEAKER. The Chair lays before the House the following resolution (S. Con. Res. 53), which the Clerk will report.

The Clerk read as follows:

Resolved by the Senate (the House of Representatives concurring), That the two Houses of Congress shall adjourn on Monday, August 3, 1953, and that when they adjourn on said day they stand adjourned sine die.

The SPEAKER. The question is on the resolution.

The resolution was agreed to.

INCOME AND ESTATE TAXES

Mr. REED of New York. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 6426) to amend the Internal Revenue Code to extend the time during which certain provisions relating to income and estate taxes shall apply, and for other purposes, with a Senate amendment thereto and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 10, strike out all after line 16 over to and including line 8 on page 11 and insert:

"(a) Amendment of section 116 (a) (2): Section 116 (a) (2) (relating to exclusion from gross income of earned income from sources without the United States) is hereby amended by adding at the end thereof the following new sentences:

"'If the 18-month period includes the entire taxable year, the amount excluded under this paragraph for such taxable year shall not exceed $20,000. If the 18-month period does not include the entire taxable year, the amount excluded under this paragraph for such taxable year shall not exceed an amount which bears the same ratio to $20,000 as the number of days in the part of the taxable year within the 18-month period bears to the total number of days in such year.'"

Page 12, line 1, strike out "April 14, 1953," and insert: "December 31, 1952, but only to amounts received after such date. In the case of any taxable year beginning in 1952 and ending in 1953 the exclusion of amounts received after December 31, 1952, shall not exceed an amount which is the same proportion of $20,000 as the number of days in such taxable year after December 31, 1952, is of 365 days."

Page 29, line 11, strike out "July" and insert "June."

Page 29, line 15, strike out "or after."

Page 30, line 1, strike out "July" and insert "June."

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The Senate amendment was concurred in, and a motion to reconsider was laid on the table.

(Messrs. REED of New York and COOPER asked and were given permission to extend their remarks at this point in the RECORD.)

Mr. REED of New York. Mr. Speaker, H. R. 6426, as passed by the House, amended section 116 (a) (2) of the Internal Revenue Code, effective as to amounts received after December 31, 1952. Section 116 (a) (2) excludes from income in the case of a citizen of the United States income earned abroad if such citizen was present in a foreign country or countries for a period of 17 out of 18 consecutive months. While this paragraph was designed to encourage men with technical knowledge to go abroad in order to complete specific projects, it has been subject to a great deal of abuse. Some individuals with large earnings have seized upon the provision as an inducement to go abroad to perform services, which were customarily performed at home, for the primary purpose of avoiding the Federal income taxes. It has also been ascertained that in many cases Americans taking advantage of this provision do not pay any income tax even to the foreign country or countries in which the income is earned. This is because they are not in any particular foreign country long enough to establish a residence or because the foreign country in question does not impose any income tax. Under the House bill, section 116 (a) (2) of the Internal Revenue Code was repealed effective as of April 15, 1953. Under the Senate amendment, section 116 (a) (2) is retained but is limited to $20,000 of earned income if the taxpayer is abroad for the full taxable year or to a portion thereof if the taxpayer is abroad for less than the full taxable year. While the Senate amendment applies to taxable years ending after December 31, 1952, it will cover only such amounts as are received on or after January 1, 1953. A limitation on the amount of the earned income from foreign sources which is exempt, such as is provided by the Senate amendment, will, in my opinion be sufficient to correct the evils which have been brought to our attention.

Mr. Speaker, the House bill also made an amendment to section 3801 of the Internal Revenue Code. The provisions added by the bill applied only where the determination relating to the disallowance of the deduction on credit, or the exclusion of the items from gross income, as the case may be, became final after June 30, 1952. The only change made by the Senate bill is that the provision will not apply if the determination became final prior to June 1, 1952.

Mr. COOPER. Mr. Speaker, the Revenue Act of 1951 added a provision to the Internal Revenue Code whereby income earned abroad by a citizen of the United States who is present in a foreign country or countries for 17 out of 18 consecutive months is exempt from income tax. This provision was designed primarily to take care of technicians and the like who go abroad in order to complete specific projects.

It was brought to the attention of the Committee on Ways and Means that this exemption was being abused, and the bill as it passed the House contained a provision repealing outright the provision. The Senate Committee on Finance amended the provision so as to permit an exemption of $20,000 of earned income abroad for a taxable year, effective for taxable years ending after December 31, 1952 but covering income received on or after January 1, 1953, only.

The Senate also amended section 211 of the bill relating to the mitigation of the statute of limitations, by changing the date in the House-passed bill from July 1, 1952, to June 1, 1952.

LEAVE OF ABSENCE

By unanimous consent leave of absence was granted to Mr. MILLER of Nebraska for this date, on account of death in family.

The SPEAKER. The Chair wishes to express his sincere thanks to the majority leader [Mr. HALLECK], and to the minority leader [Mr. RAYBURN], for their many courtesies during the year. The Chair is also grateful to the Members of the House on both sides of the aisle for their cooperation and wishes each and every one of you a very happy vacation and hope to see you back here in good health next January.

EXTENSION OF REMARKS

By unanimous consent, permission to extend remarks in the Appendix of the RECORD, or to revise and extend remarks was granted to:

Mr. PRIEST.

Mr. LONG and to include an editorial from the Daily Oklahoman.

Mr. LANE in three instances, in each to include extraneous matter.

Mr. DONOHUE and to include extraneous matter.

Mr. GRAHAM and to include a short article.

Mr. JONAS of North Carolina.

Mr. BUDGE in three instances and to include extraneous material.

Mrs. ROGERS of Massachusetts in three instances and to include extraneous material.

Mr. CHIPERFIELD in two instances.

Mr. GROSS and to include extraneous material.

Mr. HILL in two instances, in each to include extraneous material.

Mr. REECE of Tennessee in two instances and to include extraneous material.

Mr. WOLVERTON in five instances and to include extraneous material.

Mr. BENDER in six instances and to include extraneous material.

Mr. JONES of Missouri in two instances and to include extraneous matter.

Mr. CARLYLE in three instances and to include extraneous matter.

Mr. MCMILLAN and to include an article from the American Mercury magazine.

Mr. HOLIFIELD in five instances and to include extraneous matter.

Mr. REAMS in three instances and to include extraneous matter.

Mr. SIEMINSKI in five instances and to include extraneous matter.

Mr. DEANE and to include extraneous matter.

Mr. CAMPBELL and to include an editorial.

Mr. BUSH (at the request of Mr. GAVIN) and to include extraneous matter.

Mr. HOPE (at the request of Mr. AUGUST H. ANDRESEN) in five instances and to include extraneous matter.

Mr. CANFIELD to extend his remarks in the RECORD prior to the adoption of the conference report on the supplemental appropriation bill in respect to defense.

Mr. ANGELL (at the request of Mr. ELLSWORTH).

Mr. MAGNUSON (at the request of Mr. HOWELL) and to include extraneous matter.

Mr. PATMAN, under general leave to extend, and to include extraneous matter.

Mr. WICKERSHAM in two instances and to include extraneous matter.

Mr. SAYLOR in three instances and to include extraneous matter.

Mr. COTTON in 2 instances; on 1 to include a letter from the Governor of New Hampshire to the Governor of Tennessee.

Mr. NEAL in two instances and to include extraneous matter.

Mr. HOFFMAN of Michigan to revise and extend the remarks he made last Saturday.

Mr. JOHNSON and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $252.

Mr. UTT and to include extraneous matter.

Mr. HOLIFIELD to revise and extend his remarks made today.

Mr. MULTER (at the request of Mr. FRIEDEL) and to extend his remarks in the Appendix and include a report to his constituents, notwithstanding the fact that it is estimated by the Public Printer to cost $840.

Mr. MCDONOUGH.

Mr. BONNER.

Mr. FEIGHAN in three instances and to include extraneous matter.

Mr. WILLIAMS of Mississippi in two instances and to include extraneous matter.

Mr. MILLER of Nebraska (at the request of Mr. HALLECK) in three instances and to include extraneous matter.

Mr. CROSSER in two instances and to include extraneous matter.

Mr. GWINN in two instances and to include extraneous matter.

Mr. GAMBLE and to include a statement by Ralph E. Becker.

Mr. GAMBLE and to include procedure for congressional hearings, notwithstanding the fact it exceeds the limit and is estimated by the Public Printer to cost $252.

Mr. HAGEN of Minnesota to revise and extend his remarks.

Mr. GROSS and Mr. WILLIAMS of Mississippi to revise and extend their remarks on S. 2417 following the remarks of Mr. LANE.

Mr. RAINS (at the request of Mr. PRIEST).

Mr. JENSEN.

Mr. HOLT (at the request of Mr. UTT) in three instances and to include extraneous material.

Mr. BOW in two instances and to include editorials.

Mr. TABER and to include tables in today's or the next issue of the RECORD.

Mr. TALLE in two instances and to include extraneous matter.

Mr. NEAL on the debate on S. 2417.

Mr. ZABLOCKI.

Mr. DORN of South Carolina and to include an article.

Mr. TABER. Mr. Speaker, I obtained consent this afternoon to insert in the RECORD a statement and a table. I am afraid that the space required will be more than that permitted under the rules. Therefore, I ask unanimous consent that I may extend my remarks in the RECORD and include a table that I prepared and that it be printed notwithstanding the cost.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. CANNON (at the request of Mr. BOLLING) and to include a newspaper article.

Mr. POFF and to include a newspaper article.

Mr. LAIRD in three instances, in each to include extraneous matter.

Mr. HESELTON to extend his remarks in connection with the food and drug bill conference report.

Mr. BYRNES of Wisconsin and to include a tabulation of his votes cast in the first session of the 83d Congress.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 68. An act for the relief of Mrs. Rebecca Godschalk; to the Committee on the Judiciary.

S. 79. An act to authorize the Secretary of the Interior to cooperate with the State of Kentucky to acquire non-Federal cave properties within the authorized boundaries of Mammoth Cave National Park in the State of Kentucky, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 123. An act for the relief of Anni Wilhelmine Skoda; to the Committee on the Judiciary.

S. 214. An act for the relief of Geraldine B. Mathews; to the Committee on the Judiciary.

S. 236. An act for the relief of Amir Hassan Sepahban; to the Committee on the Judiciary.

S. 260. An act for the relief of Ahmet Haldun Koca Taskin; to the Committee on the Judiciary.

S. 305. An act for the relief of Antonio Vocale; to the Committee on the Judiciary.

S. 353. An act for the relief of Li Ming; to the Committee on the Judiciary.

S. 502. An act for the relief of Mrs. Margareth Weigand; to the Committee on the Judiciary.

S. 532. An act for the relief of Guiglio Squillari, Mrs. Barbero Margiorina Squillari, Kosanna Squillari, and Eugenio Squillari; to the Committee on the Judiciary.

S. 606. An act for the relief of Hannelre Netz and her two children; to the Committee on the Judiciary.

S. 827. An act for the relief of Matthew J. Berckman; to the Committee on the Judiciary.

S. 982. An act for the relief of Helena Lewicka; to the Committee on the Judiciary.

S. 1018. An act for the relief of George Ellis Ellison; to the Committee on the Judiciary.

S. 1160. An act to authorize the Secretary of the Interior to convey certain land to the city of Tucson, Ariz., and to accept other land in exchange therefor; to the Committee on Interior and Insular Affairs.

S. 1226. An act for the relief of Stefan Virgilius Issarescu; to the Committee on the Judiciary.

S. 1276. An act to amend the Bankhead-Jones Farm Tenant Act in order to increase the interest rate on loans made under title I of such act; to the Committee on Agriculture.

S. 1323. An act for the relief of Lydia L. A. Samraney; to the Committee on the Judiciary.

S. 1440. An act for the relief of Paolo Danesi; to the Committee on the Judiciary.

S. 1469. An act for the relief of Pier Luigi Borghesi Stewart; to the Committee on the Judiciary.

S. 1652. An act for the relief of Robert A. Tyrrell; to the Committee on the Judiciary.

S. 1796. An act to incorporate the Board for Fundamental Education; to the Commitee on the Judiciary.

S. 2073. An act for the relief of Esther Wagner; to the Committee on the Judiciary.

S. 2108. An act for the relief of Lieselotte Sommer; to the Committee on the Judiciary.

S. 2151. An act for the relief of Mrs. Ala Olejcak (nee Holubowa); to the Committee on the Judiciary.

S. 2318. An act for the relief of Jon Jeffrey Williams; to the Committee on the Judiciary.

S. 2424. An act to amend section 203 (j) of the Federal Property and Administrative Services Act of 1949, as amended, to permit the disposal of surplus property to State health departments and to county mosquito control districts; to the Committee on Government Operations.

ENROLLED BILLS SIGNED

Mr. LECOMPTE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and joint resolutions of the House of the following titles, which were thereupon signed by the Speaker:

H. R. 307. An act to revive and reenact the act entitled "An act authorizing the Ogdensburg Bridge Authority, its successors and assigns, to construct, maintain, and operate a bridge across the St. Lawrence River at or near the city of Ogdensburg, N. Y.";

H. R. 660. An act for the relief of Frank B. Pindle;

H. R. 684. An act for the relief of Kim Jung Soo;

H. R. 723. An act for the relief of Mrs. Fumiko Sawai Skovran;

H. R. 728. An act for the relief of Helga G. Jordan and her son;

H. R. 777. An act for the relief of Richard H. Backus;

H. R. 812. An act for the relief of the estate of Mrs. India Taylor Palmi Stevenson;

H. R. 814. An act for the relief of Lt. Thomas C. Rooney and Mrs. Thomas C. Rooney, his wife;

H. R. 837. An act for the relief of Lt. Col. James D. Wilmeth;

H. R. 871. An act for the relief of Orsola Jacopelli Leggio;

H. R. 917. An act for the relief of Luigi Lotito;

H. R. 937. An act for the relief of the estate of Frank DeNuzzi and Cecelia Melnik Burns;

H. R. 953. An act for the relief of Jekabs Lenbergs;

H. R. 954. An act for the relief of Edith Smith;

H. R. 975. An act for the relief of Dr. Dudley A. Reekie;

H. R. 1055. An act to eliminate certain discriminatory legislation against Indians in the United States;

H. R. 1063. An act to confer jurisdiction on the States of California, Minnesota, Nebraska, Oregon, and Wisconsin, with respect to criminal offenses and civil causes of action committed or arising on Indian reservations within such States, and for other purposes;

H. R. 1124. An act for the relief of Gerda Goerauch;

H. R. 1127. An act to validate a conveyance of certain lands by the Central Pacific Railway Co., and its lessee, Southern Pacific Co., to the Union Ice Co. and Edward Barbera;

H. R. 1219. An act authorizing the Hidalgo Bridge Co., its heirs, legal representatives, and assigns, to construct, maintain, and operate a railroad toll bridge across the Rio Grande, at or near Hidalgo, Tex.;

H. R. 1460. An act for the relief of Harold Joe Davis;

H. R. 1524. An act to facilitate the management of the National Park System and miscellaneous areas administered in connection with that system, and for other purposes;

H. R. 1527. An act to authorize the acquisition by the United States of the remaining non-Federal lands within Big Bend National Park, and for other purposes;

H. R. 1629. An act for the relief of Miss Aiko Ikehara;

H. R. 1753. An act for the relief of Marigo de Thassy;

H. R. 1756. An act for the relief of Eugene de Thassy;

H. R. 1792. An act for the relief of Lee Lai Ha;

H. R. 1892. An act for the relief of Nicola, Lucia, and Rocco Fierro;

H. R. 2011. An act to authorize the sale of certain public lands in Alaska to the Alaska Council of Boy Scouts of America for a campsite and other public purposes;

H. R. 2013. An act to authorize the sale of certain land in Alaska to the Calvary Baptist Church, of Anchorage, Alaska, for use as a church site;

H. R. 2019. An act to authorize the Secretary of the Interior to sell certain land to Ted B. Landoe and Roderic S. Carpenter;

Public Law 287 - 83d Congress
Chapter 512 - 1st Session
H. R. 6426

AN ACT

To amend the Internal Revenue Code to extend the time during which certain provisions relating to income and estate taxes shall apply, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) SHORT TITLE.—This Act, divided into titles and sections according to the following table of contents, may be cited as the "Technical Changes Act of 1953": Technical Changes Act of 1953. Income and estate taxes.

TABLE OF CONTENTS

(b) ACT AMENDATORY OF INTERNAL REVENUE CODE.—Except as otherwise expressly provided, wherever in this Act an amendment or repeal is expressed in terms of an amendment to or repeal of a chapter, subchapter, title, supplement, section, subsection, subdivision, paragraph, subparagraph, or clause, the reference shall be considered to be made to a provision of the Internal Revenue Code.

(c) MEANING OF TERMS USED.—Except as otherwise expressly provided, terms used in this Act shall have the same meaning as when used in the Internal Revenue Code:

TITLE I—EXTENSION PROVISIONS

SEC. 101. ELECTION AS TO RECOGNITION OF GAIN IN CERTAIN CORPORATE LIQUIDATIONS.

(a) AMENDMENT OF SECTION 112 (b) (7).—Section 112 (b) (7) (relating to recognition of gain in certain corporate liquidations) is hereby amended by striking out "1951 or 1952" in subparagraph (A) (ii) and inserting in lieu thereof "1951, 1952, or 1953". 65 Stat. 493. 26 USC 112.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to taxable years ending after December 31, 1952.

SEC. 102. EXTENSION OF TIME TO MAKE ELECTION IN RESPECT OF EXCESSIVE DEPRECIATION ALLOWED FOR PERIODS BEFORE 1952.

66 Stat. 629. 26 USC 113. (a) AMENDMENT OF SECTION 113 (d).—So much of section 113 (d) (relating to election in respect of depreciation, etc., allowed before 1952) as follows the first sentence thereof is hereby amended to read as follows: "Such an election shall be made in such manner as the Secretary may by regulations prescribe and shall be irrevocable when made, except that an election made on or before December 31, 1952, may be revoked at any time before January 1, 1955. A revocation of an election shall be made in such manner as the Secretary may by regulations prescribe, and no election may be made by any person after he has so revoked an election. The election shall apply in respect of all property held by the person making the election at any time on or before December 31, 1952, and in respect of all periods since February 28, 1913, and before January 1, 1952, during which such person held such property or for which adjustments must be made under subsection (b)(2). An election or a revocation of an election by a transferor, donor, or grantor made after the date of the transfer, gift, or grant of property shall not affect the basis of such property in the hands of the transferee, donee, or grantee. No election may be made under this subsection after December 31, 1954."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective as if included in the amendment made by section 2 66 Stat. 629. of Public Law 539, Eighty-second Congress, at the time of its enactment.

SEC. 103. EXTENSION OF TIME FOR MAKING ELECTION WITH RESPECT TO WAR-LOSS RECOVERIES.

65 Stat. 514. 26 USC 127. Section 127 (c) (5) (relating to election with respect to war-loss recoveries) is hereby amended by striking out "December 31, 1952" and inserting in lieu thereof "December 31, 1953".

SEC. 104. EXTENSION OF PERIOD OF ABATEMENT OF INCOME TAXES OF MEMBERS OF ARMED FORCES UPON DEATH.

65 Stat. 507. 26 USC 154. Section 154 (relating to income taxes of members of Armed Forces on death) is hereby amended by striking out "January 1, 1954" and inserting in lieu thereof "January 1, 1955".

SEC. 105. EXTENSION OF TEMPORARY PROVISIONS RELATING TO LIFE INSURANCE COMPANIES.

66 Stat. 444. 26 USC 201, 203A, 433. (a) TAX FOR 1953.—Sections 201 (a) (1) (relating to imposition of tax on life insurance companies), 203A (relating to 1951 and 1952 adjusted normal-tax net income of life insurance companies), and 433 (a) (1) (H) (relating to excess profits net income of life insurance companies) are each hereby amended by striking out "1951 and 1952" wherever appearing therein and inserting in lieu thereof "1953".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply only to taxable years beginning in 1953. The application 26 USC 201. of the amendment to section 201 (f) (relating to disallowance of double deductions) made by section 336 (c) (2) of the Revenue Act of 65 Stat. 508. 1951 is hereby extended to taxable years beginning after December 31, 1952.

SEC. 106. EXTENSION OF PERIOD FOR EXEMPTION FROM ADDITIONAL ESTATE TAX OF MEMBERS OF ARMED FORCES UPON DEATH.

65 Stat. 567. 26 USC 939. Section 939 (b) (relating to the tax treatment of estates of certain members of the Armed Forces) is hereby amended by striking out "JANUARY 1, 1954" and inserting in lieu thereof "JANUARY 1, 1955", and by striking out "January 1, 1954" and inserting in lieu thereof "January 1, 1955".

TITLE II—MISCELLANEOUS

SEC. 201. VENUE OF ACTIONS FOR VIOLATIONS OF ACT OF OCTOBER 19, 1949.

(a) AMENDMENT OF ACT.—Section 2 of the Act entitled "An Act to assist States in collecting sales and use taxes on cigarettes", approved October 19, 1949 (15 U. S. C., sec. 376), is hereby amended by striking out "forward to" and inserting in lieu thereof "file with". 63 Stat. 884.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply only in respect of memoranda or copies of invoices covering shipments made during the calendar month in which this Act is enacted and subsequent calendar months.

SEC. 202. DEDUCTION OF CERTAIN UNPAID EXPENSES AND INTEREST.

(a) AMENDMENT OF SECTION 24 (c).—Paragraph (1) of section 24 (c) (relating to disallowance of certain deductions for expenses incurred and interest accrued) is hereby amended to read as follows: 53 Stat. 17. 26 USC 24.

"(1) If within the period consisting of the taxable year of the taxpayer and two and one-half months after the close thereof (A) such expenses or interest are not paid, and (B) the amount thereof is not includible in the gross income of the person to whom the payment is to be made; and".

(b) EFFECTIVE DATE.—

(1) Except as otherwise provided in paragraph (2), the amendment made by subsection (a) shall apply only with respect to taxable years beginning after December 31, 1950.

(2) At the election of a taxpayer (hereinafter in this paragraph referred to as the "payor") made within one year after the date of the enactment of this Act, the amendment made by subsection (a) shall also apply with respect to such taxable years of the payor beginning after December 31, 1945, and before January 1, 1951, as are specified by the payor in making such election. Such election for any taxable year shall not be valid as to any amount unless, at or before the time when such election is filed—

(A) the person (hereinafter in this paragraph referred to as the "payee") to whom such amount was payable included such amount in gross income for his taxable year for which such amount was includible in gross income, or

(B) the payee files a written consent to the assessment and collection of any deficiency and interest resulting from the payee's failure to include such amount in gross income for such taxable year, or

(C) the payor pays an amount equal to the deficiency and interest which would be payable by the payee pursuant to subparagraph (B) if he filed such consent. (Any amount paid under this subparagraph shall be assessed, notwithstanding any law or rule of law to the contrary, as an addition to the tax of the payor for the year for which the election is filed.)

The periods of limitation provided in sections 275 and 276 of the Internal Revenue Code on the making of an assessment and the beginning of distraint or a proceeding in court for collection shall, with respect to any deficiency and interest thereon resulting from any consent filed pursuant to subparagraph (B), include one year immediately following the date such consent is filed, and such assessment and collection may be made notwithstanding any provision of law or any rule of law which otherwise would prevent such assessment and collection. If an election by a payor should be filed for a taxable year of the payor for which allowance of credit or refund of an overpayment 26 USC 275, 276.

is barred (at the time of such filing) by any law or rule of law, any consent filed by the payee in respect of any amount which represents expenses incurred or interest accrued by the payor for such year shall be void. If a consent requires the inclusion in the gross income of the payee for any taxable year of an amount which was erroneously included in the gross income of the payee for another taxable year and, on the date the consent is filed, correction of the effect of the error is prevented by the operation of any provision of the internal-revenue laws other than section 3761 of the Internal Revenue Code (relating to compromises), then the effect of the error shall be corrected in accordance with section 3801 of the Internal Revenue Code as if the consent were a determination under such section 3801 in which there is adopted a position maintained by the Secretary of the Treasury. The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out the provisions of this paragraph.

26 USC 3761.

26 USC 3801.

SEC. 203. BASIS OF CERTAIN PROPERTY TRANSFERRED IN TRUST.

(a) AMENDMENT OF SECTION 113 (a) (5).—The second sentence of section 113 (a) (5) (relating to the basis of property transmitted at death) is hereby amended by inserting immediately after the words "revoke the trust" the following: "or to make any change in the enjoyment thereof through the exercise of a power to alter, amend, or terminate the trust".

53 Stat. 41.
26 USC 311.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply (1) only in the case of property transferred by grantors dying after December 31, 1951, and (2) only with respect to taxable years ending after December 31, 1951.

SEC. 204. EARNED INCOME FROM SOURCES WITHOUT THE UNITED STATES.

(a) AMENDMENT OF SECTION 116 (a) (2).—Section 116 (a) (2) (relating to exclusion from gross income of earned income from sources without the United States) is hereby amended by adding at the end thereof the following new sentences:

65 Stat. 498.
26 USC 116.

"If the 18-month period includes the entire taxable year, the amount excluded under this paragraph for such taxable year shall not exceed $20,000. If the 18-month period does not include the entire taxable year, the amount excluded under this paragraph for such taxable year shall not exceed an amount which bears the same ratio to $20,000 as the number of days in the part of the taxable year within the 18-month period bears to the total number of days in such year."

(b) WITHHOLDING OF TAX ON WAGES OF CITIZENS OUTSIDE THE UNITED STATES.—So much of section 1621 (a) (8) (relating to the definition of wages) as precedes subparagraph (B) thereof is hereby amended to read as follows:

65 Stat. 498.
26 USC 1621.

"(8) (A) for services for an employer (other than the United States or any agency thereof) (i) performed by a citizen of the United States if, at the time of the payment of such remuneration, it is reasonable to believe that such remuneration will be excluded from gross income under section 116 (a), or (ii) performed in a foreign country by such a citizen if, at the time of the payment of such remuneration, the employer is required by the law of any foreign country to withhold income tax upon such remuneration, or".

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to taxable years ending after December 31, 1952, but only to amounts received after such date. In the case of any taxable year beginning in 1952 and ending in 1953 the exclusion of amounts received after December 31, 1952, shall not exceed an amount which is the same proportion of $20,000 as the number of days

in such taxable year after December 31, 1952, is of 365 days. The amendments made by subsections (a) and (b) shall not affect the liability of any employer to deduct and withhold the tax imposed by section 1622 in the case of any remuneration paid before the first day of the first month beginning more than ten days after the date of the enactment of this Act. 26 USC 1622.

SEC. 205. NET OPERATING LOSS CARRY-OVERS.

(a) AMENDMENT OF SECTION 122 (b) (2).— 26 USC 122.

(1) Section 122 (b) (2) (relating to net operating loss carry-over) is hereby amended by adding after subparagraph (D) the following new subparagraphs:

"(E) Loss For Taxable Years of Corporations Beginning In 1947 And Ending In 1948.—If a corporation (other than a corporation which commenced business after December 31, 1945) has a net operating loss for a taxable year beginning in 1947 and ending in 1948, subparagraph (C) shall apply as if the taxable year began after December 31, 1947; except that the net operating loss carry-over for the third succeeding taxable year shall not exceed that amount which bears the same ratio to the net operating loss as the number of days in the taxable year after December 31, 1947, bears to the total number of days in the taxable year.

"(F) Loss in Case of Corporations Whose First Taxable Year Began in 1949 and Ended in 1950.—If the first taxable year of a corporation began in 1949 and ended in 1950, and if the corporation had a net operating loss for such first taxable year, there shall be a net operating loss carry-over for the fourth and fifth succeeding taxable years. The amount of such carry-over shall be determined in accordance with the first sentence of subparagraph (B); except that—

"(i) such carry-over for the fourth succeeding taxable year shall not exceed so much of such net operating loss as is allocable to 1950, and

"(ii) such carry-over for the fifth succeeding taxable year shall not exceed the amount by which the carry-over for the fourth succeeding taxable year (as limited by clause (i) of this sentence) exceeds the net income for the fourth succeeding taxable year computed as provided in clauses (i) and (ii) of the first sentence of subparagraph (B).

For the purposes of the preceding sentence, the portion of the net operating loss which is allocable to 1950 shall be an amount which bears the same ratio to such loss as the number of days in the taxable year after December 31, 1949, bears to the total number of days in the taxable year."

(2) Subparagraph (A) of section 122 (b) (2) is hereby amended by striking out "subparagraph (D)," and inserting in lieu thereof "subparagraphs (D) and (E),".

(3) The amendment made by paragraph (2), and subparagraph (E) of section 122 (b) (2) of the Internal Revenue Code as added by paragraph (1), shall apply with respect to taxable years ending after December 31, 1947. Subparagraph (F) of section 122 (b) (2) of the Internal Revenue Code as added by paragraph (1) shall apply with respect to taxable years ending after December 31, 1949.

(b) SUCCESSOR RAILROAD CORPORATIONS.—

(1) Subsection (c) of the first section of the Act of July 15, 1947 (61 Stat. 324), relating to allowance to successor railroad corporations of benefits of certain carry-overs of predecessor corporations, is hereby amended to read as follows: 26 USC 122 note.

All 67 Stat. 620.

"(c) For the purposes of this section, if the period, beginning on the first day of the taxable year of the predecessor corporation in which the acquisition occurred and ending on the last day of the taxable year of the successor corporation in which the acquisition occurred, is not more than twelve months, then—

"(1) if such net operating loss or unused excess profits credit was for a taxable year beginning before January 1, 1948, the number of succeeding taxable years to which such net operating loss or unused excess profits credit is a carry-over shall be three (instead of two, as respectively provided in section 122 (b) (2) (A) and section 710 (c) (3) (B) of such code); and

26 USC 122, 710.

"(2) if such net operating loss was for a taxable year beginning after December 31, 1947, and before January 1, 1950, the number of succeeding taxable years to which such net operating loss is a carry-over shall be four (instead of three, as provided in section 122 (b) (2) (C) of such code);

and such regulations shall prescribe (as nearly as possible in the manner respectively prescribed in sections 122 (b) (2) and 710 (c) (3) (B) of such code with respect to a net operating loss or an unused excess profits credit, as the case may be, for such taxable year) the amount to be carried over to the last of such succeeding taxable years."

(2) The amendment made by paragraph (1) shall be effective as if included in such Act of July 15, 1947, at the time of its enactment.

SEC. 206. AMORTIZATION DEDUCTION FOR GRAIN STORAGE FACILITIES.

(a) ALLOWANCE OF DEDUCTION.—Supplement B of subchapter C of chapter 1 is hereby amended by inserting after section 124A the following new section:

26 USC 124A.

"SEC. 124B. AMORTIZATION DEDUCTION FOR GRAIN STORAGE FACILITIES.

"(a) ALLOWANCE OF DEDUCTION.—

"(1) ORIGINAL OWNER.—Any person who constructs, reconstructs, or erects a grain storage facility (as defined in subsection (d)) shall, at his election, be entitled to a deduction with respect to the amortization of the adjusted basis (for determining gain) of such facility based on a period of sixty months. The sixty-month period shall begin as to any such facility, at the election of the taxpayer, with the month following the month in which the facility was completed, or with the succeeding taxable year.

"(2) SUBSEQUENT OWNERS.—Any person who acquires a grain storage facility from a taxpayer who—

"(A) elected under subsection (b) to take the amortization deduction provided by this subsection with respect to such facility, and

"(B) did not discontinue the amortization deduction pursuant to subsection (c).

shall, at his election, be entitled to a deduction with respect to the adjusted basis (determined under subsection (e) (2)) of such facility based on the period, if any, remaining (at the time of acquisition) in the sixty-month period elected under subsection (b) by the person who constructed, reconstructed, or erected such facility.

"(3) AMOUNT OF DEDUCTION.—The amortization deduction provided in paragraphs (1) and (2) shall be an amount, with respect to each month of the amortization period within the taxable year, equal to the adjusted basis of the facility at the end of such month, divided by the number of months (including the month for which the deduction is computed) remaining in the period. Such

adjusted basis at the end of the month shall be computed without regard to the amortization deduction for such month. The amortization deduction above provided with respect to any month shall be in lieu of the deduction with respect to such facility for such month provided by section 23 (l) (relating to exhaustion, wear and tear, and obsolescence). 26 USC 23.

"(b) ELECTION OF AMORTIZATION.—The election of the taxpayer under subsection (a) (1) to take the amortization deduction and to begin the sixty-month period with the month following the month in which the facility was completed shall be made only by a statement to that effect in the return for the taxable year in which the facility was completed. The election of the taxpayer under subsection (a) (1) to take the amortization deduction and to begin such period with the taxable year succeeding such year shall be made only by a statement to that effect in the return for such succeeding taxable year. The election of the taxpayer under subsection (a) (2) to take the amortization deduction shall be made only by a statement to that effect in the return for the taxable year in which the facility was acquired. Notwithstanding the preceding three sentences, the election of the taxpayer under subsection (a) (1) or (2) may be made, under such regulations as the Secretary may prescribe, before the time prescribed in the applicable sentence.

"(c) TERMINATION OF AMORTIZATION DEDUCTION.—A taxpayer which has elected under subsection (b) to take the amortization deduction provided in subsection (a) may, at any time after making such election, discontinue the amortization deduction with respect to the remainder of the amortization period, such discontinuance to begin as of the beginning of any month specified by the taxpayer in a notice in writing filed with the Secretary before the beginning of such month. The deduction provided under section 23 (l) shall be allowed, beginning with the first month as to which the amortization deduction is not applicable, and the taxpayer shall not be entitled to any further amortization deduction with respect to such facility. 26 USC 23.

"(d) DEFINITION OF GRAIN STORAGE FACILITY.—For the purposes of this section, the term 'grain storage facility' means—

"(1) any corn crib, grain bin, or grain elevator, or any similar structure suitable primarily for the storage of grain, which crib, bin, elevator, or structure is intended by the taxpayer at the time of his election to be used for the storage of grain produced by him (or, if the election is made by a partnership, produced by the members thereof); and

"(2) any public grain warehouse permanently equipped for receiving, elevating, conditioning, and loading out grain,

the construction, reconstruction, or erection of which was completed after December 31, 1952, and on or before December 31, 1956. If any structure described in clause (1) or (2) of the preceding sentence is altered or remodeled so as to increase its capacity for the storage of grain, or if any structure is converted, through alteration or remodeling, into a structure so described, and if such alteration or remodeling was completed after December 31, 1952, and on or before December 31, 1956, such alteration or remodeling shall be treated as the construction of a grain storage facility. The term 'grain storage facility' shall include only property of a character which is subject to the allowance for depreciation provided in section 23 (l). The term 'grain storage facility' shall not include any facility any part of which is an emergency facility within the meaning of section 124A. 26 USC 23. 26 USC 124A.

All 67 Stat. 622.

"(e) DETERMINATION OF ADJUSTED BASIS.—

"(1) ORIGINAL OWNERS.—For the purpose of subsection (a) (1)—

"(A) in determining the adjusted basis of any grain storage facility, the construction, reconstruction, or erection of which was begun before January 1, 1953, there shall be included only so much of the amount of the adjusted basis (computed without regard to this subsection) as is properly attributable to such construction, reconstruction, or erection after December 31, 1952, and

"(B) in determining the adjusted basis of any facility which is a grain storage facility within the meaning of the second sentence of subsection (d), there shall be included only so much of the amount otherwise included in such basis as is properly attributable to the alteration or remodeling.

If any existing grain storage facility as defined in the first sentence of subsection (d) is altered or remodeled as provided in the second sentence of subsection (d), the expenditures for such remodeling or alteration shall not be applied in adjustment of the basis of such existing facility but a separate basis shall be computed in respect of such facility as if the part altered or remodeled were a new and separate grain storage facility.

"(2) SUBSEQUENT OWNERS.—For the purpose of subsection (a) (2), the adjusted basis of any grain storage facility shall be whichever of the following amounts is the smaller: (A) The basis (unadjusted) of such facility for the purposes of this section in the hands of the transferor, donor, or grantor, adjusted as if such facility in the hands of the taxpayer had a substitute basis within the meaning of section 113 (b) (2) (A), or (B) so much of the adjusted basis (for determining gain) of the facility in the hands of the taxpayer (as computed without regard to this subsection) as is properly attributable to construction, reconstruction, or erection after December 31, 1952.

26 USC 113.

"(f) DEPRECIATION DEDUCTION.—If the adjusted basis of the grain storage facility (computed without regard to subsection (e) (exceeds the adjusted basis computed under subsection (e), the deduction provided by section 23 (l) shall, despite the provisions of subsection (a) (3) of this section, be allowed with respect to such grain storage facility as if the adjusted basis for the purpose of such deduction were an amount equal to the amount of such excess.

26 USC 23.

"(g) LIFE TENANT AND REMAINDERMAN.—In the case of property held by one person for life with remainder to another person, the amortization deduction provided in subsection (a) shall be computed as if the life tenant were the absolute owner of the property and shall be allowed to the life tenant."

(b) TECHNICAL AMENDMENTS.—

26 USC 23.

(1) Section 23 (t) is hereby amended to read as follows:

"(t) AMORTIZATION DEDUCTION.—The deduction for amortization provided in sections 124, 124A, and 124B."

26 USC 172.

(2) Section 172 is hereby amended by striking out "of emergency facilities".

26 USC 190.

(3) Section 190 is hereby amended by inserting after "emergency facilities" the following: "or grain storage facilities".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply only with respect to taxable years ending after the date of the enactment of this Act.

SEC. 207. EXCLUSION OF CERTAIN TRANSFERS TAKING EFFECT AT DEATH.

(a) DECEDENTS DYING AFTER FEBRUARY 10, 1939.—Paragraph (1) of section 811 (c) (relating to the inclusion of certain interests in the decedent's gross estate) is hereby amended by inserting after subparagraph (C) the following: 26 USC 811.

"Subparagraph (B) shall not apply to a transfer made before March 4, 1931; nor shall subparagraph (B) apply to a transfer made after March 3, 1931, and before June 7, 1932, unless the property transferred would have been includible in the decedent's gross estate by reason of the amendatory language of the joint resolution of March 3, 1931 (46 Stat. 1516)."

(b) DECEDENTS DYING BEFORE FEBRUARY 11, 1939.—For the purposes of section 302 (c) of the Revenue Act of 1926, as amended, an interest of a decedent shall not be included in his gross estate as intended to take effect in possession or enjoyment at or after his death unless it would have been includible as such a transfer under section 811 (c) (2) of the Internal Revenue Code, as amended by section 7 of Public Law 378, Eighty-first Congress, approved October 25, 1949 (63 Stat. 891), had such section 811 (c) (2), as so amended, applied to the estate of such decedent. No refund or credit of any overpayment resulting from the application of this subsection shall be allowed or made if prevented by the operation of the statute of limitations or by any other law or rule of law; except that if the determination of the Federal estate tax liability in respect of the estate of any decedent dying before February 11, 1939, was pending on January 17, 1949, in the Tax Court of the United States or in any other court of competent jurisdiction, or if a decision of the Tax Court of the United States or such other court determining such estate tax liability did not become final until on or after January 17, 1949, then refund or credit of any overpayment resulting from the application of this subsection may, nevertheless, be made or allowed if claim therefor is filed within one year from the date of the enactment of this Act, notwithstanding section 319 (a) of the Revenue Act of 1926 or any other law or rule of law which would otherwise prevent the allowance of such refund or credit. 44 Stat. 70. 26 USC 811. 44 Stat. 84.

(c) INTEREST.—No interest shall be allowed or paid on any overpayment resulting from the application of this section with respect to any payment made before the date of the enactment of this Act.

(d) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply only with respect to estates of decedents dying after February 10, 1939. Subsection (b) shall apply only with respect to estates of decedents dying before February 11, 1939.

SEC. 208. FAILURE TO RELINQUISH A POWER IN CERTAIN DISABILITY CASES.

(a) AMENDMENT OF SECTION 811 (d).—Section 811 (d) (relating to revocable transfers) is hereby amended by inserting after paragraph (3) thereof the following new paragraph: 26 USC 811.

"(4) EFFECT OF DISABILITY IN CERTAIN CASES.—For the purposes of this subsection, in the case of a decedent who was (for a continuous period beginning not less than three months before December 31, 1947, and ending with his death) under a mental disability to relinquish a power, the term 'power' shall not include a power the relinquishment of which on or after January 1, 1940, and on or before December 31, 1947, would, by reason of section 1000 (e), be deemed not to be a transfer of property for the purposes of chapter 4." 26 USC 1000. 26 USC 1000-1031.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply only with respect to estates of decedents dying after December 31, 1950.

SEC. 209. REVERSIONARY INTERESTS IN CASE OF LIFE INSURANCE.

(a) DECEDENTS DYING AFTER JANUARY 10, 1941, AND BEFORE OCTOBER 22, 1942.—Effective with respect to estates of decedents dying after January 10, 1941, and before October 22, 1942, the proceeds of life insurance receivable by beneficiaries other than the executor shall not be included in the gross estate of a decedent under section 811 (g) of the Internal Revenue Code unless such proceeds would have been includible under section 404 (c) of the Revenue Act of 1942 (as amended by section 503 (a) of the Revenue Act of 1950) had such section 404 (c), as so amended, applied to such estate.

26 USC 811.

56 Stat. 945; 64 Stat. 962.

(b) INTEREST.—No interest shall be allowed or paid on any overpayment resulting from the application of subsection (a) with respect to any payment made before the date of the enactment of this Act.

26 USC 811 note.

SEC. 210. MARITAL DEDUCTION IN CERTAIN CASES WHERE DECEDENT DIED BEFORE APRIL 3, 1948.

(a) IN GENERAL.—In the case of an interest in property passing by will from the decedent, if the surviving spouse is entitled for life to all the income from such property, payable annually or at more frequent intervals, with power in the surviving spouse to use and consume such portion of the property as the surviving spouse may need or desire for her (or his) comfortable support and maintenance, and with no power in any person other than the surviving spouse to appoint any part of such property, then—

(1) the interest so passing shall, for the purposes of subparagraph (A) of section 812 (e) (1) of the Internal Revenue Code, be considered as passing to the surviving spouse; and

62 Stat. 117. 26 USC 812.

(2) no part of the interest so passing shall, for the purposes of subparagraph (B) (i) of section 812 (e) (1) of the Internal Revenue Code, be considered as passing to any person other than the surviving spouse.

Nothing in this subsection shall be construed to permit the same items to be twice deducted.

(b) ELECTION.—The provisions of subsection (a) shall apply only if the surviving spouse files an election under this section with the Secretary within one year after the date of the enactment of this Act under such regulations as the Secretary shall prescribe. If such election is so filed, the property subject to such power shall, notwithstanding any other provision of law, be considered for purposes of chapters 3 and 4 of the Internal Revenue Code as property as to which the surviving spouse had a general power of appointment exercisable by deed or will. If the surviving spouse has made an election pursuant to this section, the periods of limitation provided in chapters 3 and 4 of the Internal Revenue Code on the making of an assessment and the beginning of distraint or a proceeding in court for collection shall, with respect to any deficiency and interest thereon resulting from such election, include one year immediately following the date such election is filed, and such assessment and collection may be made notwithstanding any provision of law or any rule of law which otherwise would prevent such assessment and collection.

26 USC 800-1031.

(c) INTEREST.—No interest shall be allowed or paid on any overpayment resulting from the application of this section.

67 Stat. 624. 67 Stat. 625.

(d) EFFECTIVE DATE.—This section shall apply only with respect to estates of decedents dying after December 31, 1947, and on or before the date of the enactment of the Revenue Act of 1948. If refund or credit of any overpayment resulting from the application of subsec-

62 Stat. 110. 26 USC 11 note.

tions (a) and (b) is prevented on the date of the enactment of this Act, or within one year from such date, by the operation of any law or rule of law (other than section 3760 of the Internal Revenue Code, relating to closing agreements, and other than section 3761 of such code, relating to compromises), refund or credit of such overpayment may, nevertheless, be made or allowed if claim therefor is filed within one year from the date of the enactment of this Act.

26 USC 3760.
26 USC 3761.

SEC. 211. MITIGATION OF EFFECT OF STATUTE OF LIMITATIONS.

(a) AMENDMENT OF SECTION 3801 (b).—Section 3801 (b) (relating to circumstances of adjustment) is hereby amended by inserting after paragraph (5) the following new paragraphs:

26 USC 3801.

"(6) Disallows a deduction or credit which should have been allowed to, but was not allowed to, the taxpayer for another taxable year, or to a related taxpayer; but this paragraph shall apply only if (A) the determination became final on or after June 1, 1952, and (B) credit or refund of the overpayment attributable to the deduction or credit which should have been allowed to the taxpayer or related taxpayer was not barred, by any law or rule of law, at the time the taxpayer first maintained before the Secretary or the Tax Court of the United States, in writing, that he was entitled to such deduction or credit in the taxable year for which it is so disallowed; or

"(7) Requires the exclusion from gross income of an item which is includible in the gross income of the taxpayer for another taxable year or in the gross income of a related taxpayer; but this paragraph shall apply only if (A) the determination became final on or after June 1, 1952, and (B) assessment of deficiency under section 272 (a) by the Secretary for such other taxable year or against such related taxpayer was not barred, by any law or rule of law, at the time the Secretary first maintained in a notice of deficiency sent pursuant to section 272 (a) or before the Tax Court of the United States, that such item should be included in the gross income of the taxpayer for the taxable year to which the determination relates—".

26 USC 272.

(b) TECHNICAL AMENDMENTS.—

(1) Paragraph (5) of section 3801 (b) is hereby amended by striking out "transaction—" and inserting in lieu thereof "transaction; or".

26 USC 3801.

(2) The second sentence of section 3801 (b) is hereby amended by striking out "Such" and inserting in lieu thereof "Except in cases described in paragraphs (6) and (7), such".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall be effective as if included in the Internal Revenue Code at the time of its enactment. In any case in which the determination referred to in paragraph (6) or (7) of section 3801 (b), as amended by subsection (a) of this section, became final before the date of the enactment of this Act, the one-year period described in section 3801 (c) shall be extended to include the one-year period beginning with the date of the enactment of this Act.

26 USC 3801.

Approved August 15, 1953.

U. S. GOVERNMENT PRINTING OFFICE : 1953 O - 37709